LIBRARY
SUPREME COURT, U. S.

SEP 1 1970

E. ROBERT SEAVER, CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1970

No. 633

CANDIS O. RAY, t/a CANDIS O. RAY AGENCY,
Petitioner,

v.

KANSAS CITY STOCKYARDS COMPANY OF MAINE,
A CORP., t/a GOLDEN OX RESTAURANT, ET AL,

and

RUTH G. GRAEE,
Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

CANDIS O. RAY,
Pro se
2700 Connecticut Avenue, N.W.
Washington, D. C. 20008

INDEX

	Page
Opinions Below	1
Jurisdiction	2
Question Presented	2
Constitutional Provisions Involved	2
Statement of the Case	2
REASON FOR GRANTING THE WRIT	
Fraudulent practice of law by attorneys when upheld by courts below in the light of evidence adduced constitutes violation of equal protection, property rights and due process, which if allowed to continue places the public at large and citizen's rights in jeapordy, demolishing the very essence and reason for the Constitution and the Bill of Rights	7
Conclusion	18
AUTHORITY CITED	
Turner v. Edwards, 292 N. W., 257	
"Generally fraud renders voidable everything into which it enters."	17
APPENDIX A—U. S. App. D.C. Order dated June 3, 1970	19
APPENDIX B—U. S. App. D.C. Opinion and Order dated April 28, 1970	20
APPENDIX C—U. S. App. D.C. Judgment dated February 16, 1970	21
APPENDIX D—U. S. Dist. Ct. (D.C.) Order dated November 3, 1969	22
APPENDIX E—Petition For Reconsideration	23

Page

APPENDIX F—U. S. Dist. Ct. (D.C.) Opinion dated October 17, 1969 24

APPENDIX G—Doctor's Certificate dated February 5, 1969 25

APPENDIX H—Letter dated August 5, 1966 from Hans A. Nathan to James S. Gardiner 26

APPENDIX I—Charles F. Snyder deposition dated April 14, 1965, (Introductory Statements by attorneys) 28

APPENDIX J—William Legg deposition dated May 6, 1965 (cover page showing Hans A. Nathan presence) 31

APPENDIX K—U. S. Dist. Ct. Order dated May 17, 1965, granting discovery proceedings 32

APPENDIX L—Opposition to Calendar Case for Trial 34

APPENDIX M—Letter dated September 4, 1965 from Jack H. Olender to James S. Gardiner 35

APPENDIX N—Conclusion Of Law, C. A. 737-65 37

IN THE

Supreme Court of the United States

OCTOBER TERM, 1970

No. ———

CANDIS O. RAY, t/a CANDIS O. RAY AGENCY,
Petitioner,

v.

KANSAS CITY STOCKYARDS COMPANY OF MAINE,
A CORP., t/a GOLDEN OX RESTAURANT, ET AL.,

and

RUTH G. GRAEF,
Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

Petitioner Candis O. Ray prays that a writ of certiorari issue to review the herein judgment and order of the United States Court of Appeals for the District of Columbia Circuit.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the District of Columbia Circuit is attached as Appendix B (No. 23,789), and judgment Appendix C (20,444). Appendix A is identified as the last order entered June 3,

1970 denying petitioner's petition for reconsideration of order issued April 28, 1970. Appendices D, E and F are identified as the rulings in the United States District Court for the District of Columbia Circuit.

JURISDICTION

The jurisdiction of this court is conferred by U.S.C., Sec. 1254(1).

QUESTION PRESENTED

Whether in the light of documented evidence of coercion and collusion exercised between and among the attorneys for both sides in forcing a settlement of one suit as a result of the harrassment of another suit instituted as a counter suit of the first wherein gain would be had in the settlement thereof, constitutes fraud and a violation of the Bill of Rights and the Fourteenth Amendment under citizen's rights of equal protection and due process of law.

CONSTITUTIONAL PROVISIONS INVOLVED

The Federal Constitution's Bill of Rights protecting citizen's rights and property, and specifically the Fourteenth Amendment of the Constitution as relates to due process.

STATEMENT OF THE CASE

Because of the unusual circumstances of this case involving collusion and fraud by three Washington attorneys, the petitioner has had difficulty in obtaining counsel in the Washington D. C. area, as the attorneys contacted were reluctant to get involved, and therefore petitioner is forced to represent herself, and prays indulgence of the Court.

There has been no attorney of record representing petitioner in the infringement of copyright suit other than

the attorney who originally filed the case, and no other attorney involved in the connecting slander suit than the Washington law firm Friedlander and Friedlander, with ruling from appeal to the United States Court of Appeals was rendered without a written opinion, or reason wherefor.

The petitioner is a well known and prominent Washington, D. C. resident where for a number of years she has owned and operated an advertising agency and public relations firm, with the most recent years devoted to civic projects and community activities in services for trade and professional associations in the planning of and executing their program activities for conventions, legislative conferences, international seminars and world congresses, and specializing in arranging the social affairs for the Ladies Programs in conjunction with and the cooperation of the Washington Convention and Visitors Bureau of the Washington Metropolitan Board of Trade, of which petitioner is and has been a member in good standing for over ten years.

An infringement of copyright suit was filed in the United States District Court for the District of Columbia Circuit by petitioner on date January 20, 1965 against respondents: Kansas City Stockyards Company of Maine, t/a Golden Ox Restaurant; National Broadcasting Company; Impact Advertising Agency and J. Gregory Aires, t/a Aires Publishing Company. Case No. C. A. 187-65. Attorney James S. Gardiner represented petitioner. Hans A. Nathan represented Kansas City Stockyards Company of Maine and the National Broadcasting Company. Jack H. Olender represented Impact Advertising Agency and J. Gregory Aires.

As a result, the attorney Jack H. Olender representing one of the defendants in above infringement suit, Mrs. Ruth Graze, owner of Impact Advertising, followed immediately by filing in the same court a separate suit—

Civil Action 737-65, filed March 29, 1965, *one month* after service of the infringement suit on his client Mrs. Graze, which suit charge of slander was based upon a made-up telephone conversation alleged to have transpired between petitioner and a friend of Mrs. Graze, and which shocking story was maliciously manufactured as a damaging, cruel and evil device, and used by the defendant attorneys to force petitioner into dropping the infringement of copyright suit, and to influence petitioner's counsel, as the evidence discloses.

Both suits Civil Action 187-65 and Civil Action 737-65 have been brought together and made one case by actions of the attorneys, the court records, and the voluntary statements of respondent (plaintiff) Mrs. Graze while she was a witness at the trial hearing of her slander suit 737-65.

Offers of settlement negotiations were made by defendant attorneys offering to drop the *half million dollar* slander suit Civil Action 737-65 if petitioner would agree to settle the infringement of copyright suit Civil Action 187-65 for two thousand dollars! (The defendants continued the infringement of copyrights, *commercially and gainfully after noticed*, for a period exceeding two years on almost daily basis in *defiance of and disrespect for the law.*)

On April 4th and 5th, 1966 the half million dollar slander suit 737-65 came on to be heard in the United States District Court for the District of Columbia Circuit *without a jury*, and with erroneous ruling of damages against petitioner in the amounts of two hundred and fifty dollars punitive and two hundred and fifty dollars compensatory damages, although no compensatory damages were asked and no proof whatever of any damages offered by plaintiff Graze, who stated she had lost no business, had seen no doctor, and further her husband Gerald Graze whose hearsay testimony was allowed by

the court over objection of petitioner's counsel stated he didn't believe the alleged remark supposedly said over the telephone, and even to the witness Legg whose testimony the case was based on said he didn't believe it!

On the above dates of trial in 737-65 petitioner had approximately 20,000 persons in Washington, D. C. which convention was the American Personnel and Guidance Association, comprising America's professors and counselors to whom petitioner was responsible for the planned program of social activities and professional visitations including a State Department Tea and a White House visit. She was advised by counsel, however, that she would not be long in court; that he was going to ask for a dismissal as there is no proof whatever of the alleged telephone conversation (basis of suit), and she could go back to the Washington Hilton Hotel and her duties.

The Judge presiding did not know petitioner nor her position in the community, nor that she was responsible for a State Department Tea with the wives of the Cabinet members that very afternoon. The Court's ruling in Findings of Fact (10) reveal that he was influenced by the slurring innuendoes and hearsay evidence by plaintiff and counsel—admitted into the record over objections of defense counsel—and wrongly ruled as a result of the implications of these maliciously manufactured accusations, prejudicing petitioner.

Approximately *four months after* the above slander suit ruling against petitioner in suit 737-65 the forced partial settlement of suit 187-65 was effected by and between the attorneys for both sides, at a time when petitioner was under heavy sedation for a serious ailment caused by the harrassment of these attorneys in these two connecting cases (App. G, doctor's certificate) and their wilfull persecution of using a made-up telephone conversation as a basis for allegation, *with no proof whatever that it ever transpired except the hearsay testimony*

of a friend of the plaintiff Mrs. Graze, who as the only witness changed his testimony several times!

In the above trial hearing in case 737-65 the court permitted Mrs. Graze's witness Legg to testify as to the alleged telephone conversation but *refused to allow petitioner to testify* as to what was said in the alleged telephone conversation, and *over objection of petitioner's counsel* the court allowed Mrs. Graze's husband (Gerald Graze) to testify as to what his wife told him and *ruled on that hearsay evidence*, and further prejudiced petitioner by permitting Mrs. Graze (plaintiff) herself to testify as to what she had repeated to other people about what witness Legg had supposedly said to her!

Petitioner appealed above ruling in case 737-65 to the United States Court of Appeals, represented by a Washington law firm Friedlander and Friendlander, heard September, 1966 Term, with ruling rendered February 16, 1967 (App. C) denying petitioner and affirming lower court ruling, but without rendering any reason therefor. And no written opinion handed down.

Petitioner did not appeal ruling of the Court of Appeals to the Supreme Court at that time because both of these two connecting cases go together since the partial settlement of the one, C. A. 187-65 was effected as a coercion and result of the erroneous court judgment of the other, C. A. 737-65. The herein evidenced fraud and collusion vitiates the time statute for within petition for review, as both of these connecting cases properly go together for review.

The United States Court of Appeals granted respondent's motion to dismiss petitioner's request for a hearing on the forced partial settlement of the infringement suit, and the within appeal ensued.

REASONS FOR GRANTING THE WRIT

Fraudulent Practice of Law by Attorneys When Upheld by Courts Below in the Light of Evidence Adduced Constitutes Violation of Equal Protection, Property Rights and Due Process, Which if Allowed to Continue Places the Public at Large and Citizen's Rights in Jeopardy, Demolishing the Very Essence and Reason for the Constitution and the Bill of Rights.

The importance and necessity of plenary consideration in these two connecting cases rests on the deliberate fraud which if sanctioned by the courts and allowed to continue will permeate the American way of life, distorting and abolishing the provisions of the Federal Constitution and the Bill of Rights.

The Constitution in its entirety is based upon a structure balance for the common good, resorting to the fundamental rights of the individual:

> "The whole people covenants with each citizen, and each citizen with the whole people that all shall be governed by certain laws for the common good."

As Justice Burger recently expressed the established principle so very well in connection with an Urban Highway case, "A check and balance basic to our entire system of Government".

The Court below ruled April 28, 1970 (App. B) denying petitioner hearing on motion by respondents to dismiss, and citing "*Mayfair Extension Inc.* v. *Magee*, advanced by the respondents, as reason therefor.

As advanced by respondents: "In *Mayfair Extension Inc.* v. *Magee*, 241 F.2d, 453, 100 U.S. App. D. C. 48, 1967 this court states on page 454:

> "Under this rule 60(b) a default judgment may be set aside for fraud * * *, misrepresentation, or other misconduct of an adverse party. Appellant

> argues that a motion to vacate for such reason may be brought any time within one year. But the rule requires that the motion shall be made within a reasonable time, and when based upon Rule 60(b) (3) not more than one year after the (default) judgment * * *."

The above rule states a default "judgment" may be set aside. There was no "judgment" involved in the forced partial settlement, and *there was no court record filed on the action*, and the court knew nothing about it. It was executed by the attorneys themselves. *Also, the quoted one year period within which to act does not apply as petitioner was represented by the same counsel who executed the forced partial settlement in collusion with the opposition attorneys and concealed from petitioner all of her rights, as the following discloses:*

Using the case 737-65, threats were made to petitioner to drop the infringement of copyright suit 187-65, and coercion employed by counsel on both sides, with threats from petitioner's own counsel in collusion with the defendant attorneys, as evidenced by the following:

1. Petitioner's counsel James S. Gardiner agreed with the defendant attorneys Hans A. Nathan and Jack Olender to suppress from court filing the deposition of the key witness Charles F. Snyder (Nathan's client) wherein the perjured statement exists concerning the material point of issue causing case to be instituted. See Appendix H, a letter from Nathan to petitioner's counsel Gardiner dated August 5, 1966, and Appendix I, identified as the first four pages of the Snyder deposition wherein it is revealed that defendant attorney Hans Nathan had made an understanding and agreement, *prior to the taking of the Snyder deposition*, with Jack Olender representing the other two defendants that; 1) they would file to suppress the Snyder deposition, and 2) Olender advised Nathan (App. I p. 30) that he had

filed a motion which would relieve Nathan from appearing and producing the witness Synder!

It should be noted that ***THREE DIFFERENT DATES*** had been scheduled for the taking of the Snyder deposition prior to the actual taking (App. I) with excuses made by defendant attorneys Nathan and Olender *ON ALL THREE OCCASIONS* in their conspiracy *not to appear at the same time* for the taking of the Snyder deposition. The records reveal that their secret agreement was for one of them to appear and the other would file to suppress it because of the absence of the other, displaying disregard for legal procedures in their conspiracy to cheat and deprive petitioner.

2. Hans A. Nathan, representing defendants Kansas City Stockyards and N.B.C. in the infringement of copyright suit 187-65 personally appeared at the deposition taking of the witness Legg in suit 737-65 filed by Jack Olender (App. J, identified as cover page of Legg deposition revealing appearance of Nathan).

3. Jack Olender announced to petitioner's counsel Gardiner and petitioner on date he appeared in counsel Gardiner's office—at a time when Nathan refused to appear—for the deposition of taking of Charles F. Snyder in the infringement suit of which his client Graze was a defendant, "We are suing your client for libel and slander in a separate suit."

4. Petitioner's counsel James S. Gardiner agreed in collusion with the defendant attorneys not to proceed with discoveries after granted court order (App. K dated May 17, 1965 and App. L granting thirty days in which to take the discoveries). Petitioner's counsel Gardiner concealed from his client the number of days allowed by the court for the continued discoveries.

Knowing that the discovery proceedings was the vital issue and the *core* of a fair settlement since de-

fendant attorneys in the infringement suit had expressed that they did not want the radio and television witnesses disturbed, petitioner's counsel Gardiner colluded in secret with the defendant attorneys and withheld from his client the number of days for discoveries, thus violating petitioner's rights and depriving her legal rights and due process, as provided under the Bill of Rights and the Constitution.

Petitioner learned from counsel Gardiner sometime *after* the within partial settlement was executed between and among the attorneys *without a court order* or *sanction of court* that he (Gardiner) had made an agreement with the defendant attorneys upon leaving the courthouse on the day when he was granted the court order to continue the discoveries that, *he would not continue to represent petitioner if he could not force her into a $2,000.00 settlement, and that he would not continue with the court order granting additional discovery proceedings*, and Gardiner advised petitioner that since he had made the agreement with them (defendant attorneys) and assured them that he would not proceed, he could not "go back on his word", or his assurance to them.

5. Both suits C. A. 187-65 and C. A. 737-65 were offered in settlement by proffered release by defendants dated July, 1965.

6. Jack Olender who instituted the slander suit 737-65 for the defendant Graze, party in the infringement suit 187-65, advised that they would be willing for the *Kansas City Stockyards Company to pay the settlement fee for them and all the defendants in the infringement suit* and would agree to drop the slander suit if petitioner would write a letter of apology to Mrs. Graze in lieu of the $500,000.00 damages asked in the slander suit. (See App. M, a letter from Jack Olender to petitioner's counsel Gard-

iner dated September 4, 1965 in which Olender states that his half million dollar slander suit is of no value, and that it would only be an "expensive and unprofitable" litigation. *Note that Olender mailed a carbon copy of the letter to Hans A. Nathan, defendant attorney with Olender in the infringement of copyright suit.*

Rightfully, petitioner refused to give an apology for something which she did not say, and which manufactured story was being used as a harrassment and intimidation tool in forcing settlement conditions of the infringement of copyright suit.

Although petitioner's counsel Gardiner accepted from petitioner the exact amount of fees which he requested to represent her in both of these two connecting cases, he abandoned his responsibilities to the connecting slander suit which resulted from the infringement of copyright suit which he instituted, forcing petitioner to pay out additional legal fees in the employing of other legal counsel to finish his responsibility to the case. Friedlander and Friedlander, a Washington law firm, represented petitioner in the balance of the slander suit 737-65 which case was heard in the U. S. District Court on April 4th and 5th, 1966.

The court erred in allowing hearsay testimony by the plaintiff OVER THE OBJECTION OF PETITIONER'S COUNSEL, and prejudiced the petitioner by refusing to allow her to testify as to the alleged telephone conversation (basis of suit)! The court allowed the hearsay testimony of the plaintiff Mrs. Graze's husband (Gerald Graze) and ruled on that hearsay testimony by stating in FINDINGS OF FACT (10) "The plaintiff and her husband, Gerald Graze, impressed the court as being truthful witnesses and respectful citizens" and permitted Mrs. Graze to testify as to what she had repeated to other people about what witness Legg was supposed to have said to her!

The following is from the court transcript of the trial:

"MR. FRIEDLANDER: Your Honor, might I address myself to this particular problem? We have had testimony here in this case, over my objection, of conversations between Mrs. Graze and her husband. Mr. Legg has testified for the plaintiff as to conversations he had with Mrs. Graze, which of course is hearsay because they are on the same side. And he has testified as to conversation between himself and the defendant, which would not be hearsay. Now, he has testified to it. We wish to offer our view of these same conversations which have been testified to. And we would submit that we ought to be able to offer our view of the same conversations, because it is a fact that the conversation (103) between Miss Ray and Mr. Legg are hearsay, I would agree to having the court exclude all of them; because that would of course dispose of the whole case, because their case is based upon a conversation between my client and Mr. Legg. I don't know why—

THE COURT: She can state what she said.

MR. FRIEDLANDER: Well, the whole case is based on what she is supposed to have said to Mr. Legg.

THE COURT: That is right.

MR. FRIEDLANDER: If one part of the conversation would be admissible, all of the conversation between them ought to be admissible, because they are opposing parties. This is between the witness for the plaintiff and the defendant, as distinguished from the statements between a witness for the plaintiff and the plaintiff, and the plaintiff herself and her husband—of these things have been testified to."

See the appeal brief filed in the U. S. Court of Appeals (D. C.) in above case No. 20,444, the following statement by petitioner's counsel, page 6:

"At the same time that the court permitted all of the hearsay evidence to be put into evidence, it refused to allow Appellant to testify as to her version of a subsequent conversation that she had with the wit-

ness Legg on the grounds that it was hearsay (JA 102).

The Court made the incredible ruling that it would permit the witness to testify as to what she said to Legg but not as to what Legg responded (JA 37-38). This was in spite of the fact that the witness Legg, on behalf of Appellee, had testified as to his half of this second conversation. The record did show, however, that Legg admitted that after Graze had sued Ray for slander, Ray had called him and asked him if she, Ray, had ever made the statements alleged in the complaint, and he admitted at that time that *she had not* (JA 11-12), but that he would not repeat what he just said to Miss Ray's lawyer until after he had checked with Graze (JA 12-13)."

Whereupon it is revealed (JA 12-13) that Legg and Mrs. Graze made up the alleged telephone conversation, and that prior to his telephoning Mrs. Graze he had offered to give petitioner and her lawyer a statement that petitioner *did not make the remark to him.* However, after contacting Mrs. Graze he offered to give her (Mrs. Graze), with whom he was in business in exchange of services, *a statement to the contrary,* which statement written by Mrs. Graze was signed by Legg *that very day* as a result of their manufactured story on the telephone, all of which was executed by Mrs. Graze's counsel Olender, by his own admission (See Ruth G. Graze deposition).

(It should be noted that in all of the years that witness Legg solicited petitioner's (Ray) agency business he never received any business whatever from her, and was angered by this fact.)

Petitioner's counsel Friedlander continues on page 7 of his brief, Case No. 20,444 filed in U. S. APP., D. C., September Term:

"The combination of refusing to allow Miss Ray to testify as to her version of this conversation on the grounds that it was hearsay (which it was not), and

> on the other hand permitting Legg to testify as to what he told Graze, and in turn to permit Graze to testify as to what had been told to her, and further to permit Mr. Graze to testify as to what his wife told him had been told to her, was prejudicial error. . . ."

The Court even admitted in its Findings of Fact (#3) that the witness Legg, whose word it based its ruling on, *could not remember the exact words* supposedly spoken on the telephone by petitioner! And the Court ruled on that wishy-washy memory!

The Court further erred by ruling compensatory and punitive damages against petitioner in light of the fact that no proof was offered for either in support of the *alleged vaguely remembered* statement, especially since witness Legg testified that there was no malice in the alleged "off-hand" remark (JA 15-16), and no proof of damages advanced by plaintiff Graze. The Court's own ruling (Findings of Facts—4) states that the alleged remark was made in an off-hand manner, and not as an accusation, and "at no time did the witness Legg believe the statement", yet the Court ruled damages!

Prejudicing petitioner, the Court advanced the thought (See Appellant's Brief, Case No. 20,444, APP. D. C., AT BENCH JA-19) that plaintiff Graze may have been "upset" and he would allow the hearsay testimony of her husband! Plaintiff Graze's counsel used the "upset" after that, as did all the witnesses for Mrs. Graze—and the Court ruled on that "upset".

The witness Legg changed his testimony at the trial hearing from that which he swore to in his deposition a year before, as a result of a meeting with plaintiff Graze and her counsel Olender (JA 14-15). The Court erred in overlooking witness Legg's inconsistency in the changing of his sworn statements and the discrepencies of his testimony at trial hearing, and further prejudiced petitioner by the following incredible ruling: (Findings of Fact)

"8. The testimony of witness Legg was disinterested and his demeanor on the witness stand was consistent with truthfulness."

Witness Legg stated that the alleged off-hand remark was not made in malice, yet plaintiff Graze's counsel Olender charged in the complaint that petitioner had made the alleged remark to witness Legg "maliciously". Legg denied that in court, and he denied other strong accusations made by Olender in the complaint that he was supposed to have said to Mrs Graze upon which the slander suit 737-65 was based! It is apparent that Mr. Olender did not check with witness Legg before making his accusations in the complaint! And further, he *built on* the made-up telephone conversation (which he had a hand in manufacturing by executing the Legg statement for Graze, attached to the Graze deposition) *trying to make a case out of nothing of evidence*, and in desperation, adding slurring hints and innuendoes to influence against petitioner in an effort to discredit her character and thus give discredit to her word as a witness in the connecting infringement of copyright suit, especially since his countersuits of libel in a total aggregate amount of $160,000.00 to the infringement of copyright suit depended upon the credence of petitioner's word as a witness in that suit.

Jack Olender filed the slander suit 737-65 for his client Mrs. Graze in the United States District Court for the District of Columbia Circuit on March 29, 1965, (JA I) stating "1. The amount in controversy is in excess of $10,000.00." and requesting $250,000.00 as compensatory damages and $250,000.00 as punitive damages", a total of a *half million dollars!* Yet Mr. Olender wrote to petitioner's counsel Gardiner (App. M) stating that the slander suit 737-65 was of no value and would be expensive and unprofitable for all! Yet he used the courts for this farce and coercion in effecting settlement of the infringement of copyright suit in which his client Mrs. Graze is a defendant—*taking up the time of the court!*—and petitioner's

(Ray) valuable time which is better used in serving the public interest in her public relations field explained elsewhere herein.

The Court upheld almost everything Olender advanced, as the evidence reveals, prejudicing petitioner, even to the clearly unreasonable and incredible ruling wherein the court states that Legg was a "disinterested witness" (Findings of Fact—8) whereas Legg testified several times at the court trial his concern for Mrs. Graze's well being and security and his interest in her business, and under redirect examination (See testimony JA-18) Legg stated that he was concerned "where a remark like that could spread around and do her harm". Yet the Court, having been influenced by the nature of the manufactured remark and the hearsay evidence permitted in the record, ruled that Legg was a *disinterested* witness!

The slander suit Civil Action 737-65 was ruled April 29, 1966, U. S. District Court (D.C.) against petitioner in total amount of $500.00.

Approximately *four months* later, on date August 26, 1966, the partial settlement of the infringement suit Civil Action 187-65 was executed between and among the attorneys without a court judgment, or court sanction as a result of the intimidation and harrassment of the tragic ruling of the slander suit, and at a time when petitioner was under sedation for a serious and permanent illness due to the combined harrassment and collusion between the attorneys in effecting the herein partial settlement (App. G, Doctor's certificate).

Petitioner tried to return the check. Petitioner's counsel Gardiner kept assuring petitioner that he would talk to the defendant attorneys and explain to them that petitioner wanted to return the check for $2,000.00 (which, by the way, has never been used by petitioner as she feels the money is not hers to use as it was forced upon her at a time when she could not think clearly), which

promise by counsel Gardiner was never kept, and he abandoned his responsibilities to the connecting slander suit, but remained petitioner's counsel of record in the infringement of copyright suit up until December 23, 1967—*a year and four months after* the forced partial settlement of the infringement suit which he executed on August 26, 1966, thus depriving petitioner her rights under statute procedures in his collusion with the defendant attorneys, if in fact Rule 60(b) of the Federal Appellate Procedure, applies herein, which it does not, because Rule 60(b) clearly states a court "judgment" may be set aside, and there is no judgment involved.

Petitioner was represented by the same counsel who was working in collusion with the defendant attorneys, as the evidence discloses, during the time period specified in Rule 60(b) in which to act.

The fraud and collusion between the attorneys vitiates laches, and voids and nullifies all other actions herein.

TURNER v. EDWARDS, 292 N. W., 257
"Generally fraud renders voidable everything into which it enters."

The collusion and secret agreement with the defendant attorneys until past the expiration time allowed by court order for discoveries, and concealing the same from his client (petitioner), counsel Gardiner has thus deprived petitioner fair representation and due process entitling her to a fair property damage settlement instead of the forced partial settlement of $2,000.00 effected under duress and coercion by the harrassment of these attorneys in their wilfull persecution of using a made-up telephone conversation—*with no proof whatever that it ever transpired except the hearsay evidence of a friend of the plaintiff Mrs. Graze, who as the only witness changed his testimony several times!* Thereby petitioner is seeking and respectfully requests a review of this Honorable Court to set aside the partial settlement effected under

duress, and to expunge from the court records the erroneous rulings in the unfortunate connecting slander suit in U.S. App. D.C. Case No. 20,444, Civil Action 737-65 in the U. S. District Ct. (D.C.), as it is damaging to petitioner to remain on the record against her, and to assess the costs herein to the respondents, so that the infringement of copyright suit may be placed in proper order for a fair trial.

CONCLUSION

For the reasons stated above, certiorari should be granted.

Respectfully submitted,

CANDIS O. RAY,
Pro se
2700 Connecticut Avenue, N.W.
Washington, D. C. 20008

SEPTEMBER 1, 1970

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

SEPTEMBER TERM, 1969

[Filed Jun. 3, 1970, United States Court of Appeals for the District of Columbia Circuit, /s/ Nathan J. Paulson, Clerk.]

Civil 187-65

No. 23,789

CANDIS O. RAY t/a CANDIS O. RAY AGENCY,
Appellant,

v.

KANSAS CITY STOCK YARDS COMPANY OF MAINE, t/a GOLDEN OX RESTAURANT, ET AL.

Before: BAZELON, Chief Judge, MACKINNON, Circuit Judge, in Chambers.

ORDER

On consideration of appellant's petition for rehearing, it is

ORDERED by the Court that appellant's aforesaid petition is denied.

Per Curiam
For the Court:

NATHAN J. PAULSON
Clerk

APPENDIX B

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

SEPTEMBER TERM, 1969

[Filed Apr. 28, 1970, United States Court of Appeals for the District of Columbia Circuit, /s/ Nathan J. Paulson, Clerk.]

Civil 187-65

No. 23,789

CANDIS O. RAY t/a CANDIS O. RAY AGENCY,
Appellant,

v.

KANSAS CITY STOCK YARDS COMPANY OF MAINE, t/a GOLDEN OX RESTAURANT, ET AL.

Before: BAZELON, Chief Judge, MACKINNON, Circuit Judge, in Chambers.

ORDER

On consideration of appellees' motion to dismiss the appeal and of the responsive pleadings filed with respect thereto, it is

ORDERED by the Court that appellees' aforesaid motion be granted and this appeal is dismissed. See *Mayfair Extension Inc.* v. *Magee*, 241 F.2d, 453, 100 U.S. App. D.C., 48 (1957).

Per Curiam

APPENDIX C

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

SEPTEMBER TERM, 1966

[Filed Feb. 16, 1967, United States Court of Appeals for the District of Columbia Circuit, /s/ Nathan J. Paulson, Clerk.]

Civil 737-65

No. 20,444

CANDIS O. RAY,

Appellant,

v.

RUTH G. GRAZE,

Appellee.

Appeal from the United States District Court for the District of Columbia

Before: PRETTYMAN, Senior Circuit Judge, and BURGER and MCGOWAN, Circuit Judges.

JUDGMENT

This cause came on to be heard on the record on appeal from the United States District Court for the District of Columbia, and was argued by counsel.

On consideration whereof It is ordered and adjudged by this Court that the judgment of the District Court appealed from in this cause be, and it is hereby, affirmed.

It is further ORDERED by the Court that appellee herein recover from appellant her taxable costs on this appeal, and have execution therefor.

Per Curiam

Dated: Feb. 16, 1967

APPENDIX D

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

[Filed Nov. 3, 1969, Robert M. Stearns, Clerk.]

Civil Action No. 187-65

CANDIS O. RAY t/a CANDIS O. RAY AGENCY,
Plaintiff,

v.

KANSAS CITY STOCK YARDS COMPANY OF MAINE,
a corporation, t/a GOLDEN OX RESTAURANT, ET AL.,
Defendants.

ORDER

Upon consideration of plaintiff's petition for reconsideration, and the opposition thereto, it is this 3rd day of November, 1969,

ORDERED that the petition for reconsideration be, and the same hereby is, denied.

/s/ JOHN J. SIRICA
United States District Judge

APPENDIX E

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 187-65

CANDIS O. RAY t/a CANDIS O. RAY AGENCY,
Plaintiff,

v.

KANSAS CITY STOCK YARDS COMPANY OF MAINE,
a corpoartion t/a GOLDEN OX RESTAURANT,
NATIONAL BROADCASTING COMPANY, INC.,
IMPACT ADVERTISING AGENCY, INC.,
GREGORY J. AIRES, t/a AIRES PUBLISHING COMPANY,
Defendants.

PETITION FOR RECONSIDERATION

Comes now the Plaintiff and Petitions this Honorable Court to Reconsider denial ruling dated October 17, 1969 to Plaintiff's Motion To Set Aside Partial Settlement And Title Transfer Effected Under Duress for the reason that the fraud charges were omitted in the ruling and order, and for the further reason that Plaintiff cannot be blamed for laches, nor guilty of same because of the irregular and unusual circumstances of this case and the fact that Plaintiff offers proof that she has diligently and constantly scught representation to go forward, but was curtailed and denied to go forward because of the unusual circumstances involved in this case. And for further reason that Defendant Counsel's false statements sworn under oath to this Honorable Court were not considered.

Respectfully submitted,

/s/ Candis O. Ray
CANDIS O. RAY
Plaintiff

APPENDIX F

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

[Filed Oct. 17, 1969, Robert M. Stearns, Clerk.]

Civil Action No. 187-65

CANDIS O. RAY t/a CANDIS O. RAY AGENCY,
Plaintiff,

v.

KANSAS CITY STOCK YARDS COMPANY OF MAINE,
a corporation, t/a GOLDEN OX RESTAURANT, ET AL.,
Defendants.

ORDER

Upon consideration of plaintiff's motion to set aside partial settlement and title transfer effected under duress, defendant's reply, plaintiff's answer to defendant's opposition, and the exhibits submitted by plaintiff in support thereof, and having held a hearing on this motion, it being the opinion of the Court that plaintiff's claim that the settlement signed by plaintiff on August 26, 1966, was entered into under duress, has no merit, and further that this motion is barred by the equitable doctrine of laches, it is this 17th day of October, 1969,

ORDERED that plaintiff's motion be, and the same hereby is, denied.

/s/ JOHN J. SIRICA
United States District Judge

APPENDIX G

JOHN R. EWAN, M. D.
916 - 19th Street, N. W. • Washington, D. C. 20006
Suite 420
REpublic 7-4600

February 5, 1969

RE: CANDIS RAY

To Whom It May Concern:

This is to certify that Miss Candis Ray has been under my medical care since August 1964. She suffers from a severe recurrent form of diverticulitis of the colon. During the summer of 1966 she underwent an unusually severe attack. It is probable that this was brought on as a result of a nervous tension suffered as a result of a law suit.

She is a tense, sensitive individual and very susceptible to any upsetting or distressing stimuli. She requires constant medication for her condition and sees me for medical checkups at regular intervals.

Respectfully yours,

/s/ John R. Ewan, M.D.
JOHN R. EWAN, M.D.

JRE/jal

APPENDIX H

LAW OFFICES OF
TRAMMELL, RAND & NATHAN
Suite 308
1730 K Street, N.W.
Washington, D. C. 20006

Telephone 296-7840
Cable Address "Hanslaw"

August 5, 1966

James S. Gardiner, Esq.
Woodward Building
Washington, D. C. 20005

Dear Jim:

I have since heard from Kansas City and my clients are rightfully uneasy about attempting a settlement on terms that have been twice rejected and caused our clients to incur additional expense, not only for lawyers' fees but also for disbursements. Miss Ray only very recently had the Snyder deposition transcribed, although it had been agreed that it would not be transcribed as it was suppressed, causing my office to get a copy and to expend the amount of $23.53. Similarly, I had a couple of long distance calls and spent another couple of hours reviewing the file, etc.

The Golden Ox people want me to deduct this amount from the settlement offer and have authorized me to go ahead and settle for $2,000 less the additional fees incurred, since the offer was last rejected. In order to show my own good will in trying to get this matter settled, I will charge no more than $100 additional fee to date, and, therefore, I am authorized to settle the case for the amount of $2,000 less $123.53 or $1,876.47. If this is agreeable to Miss Ray I will prepare a fairly simple re-

lease patterned after the last one, but eliminating any language which might offend Miss Ray, and incorporating a license to her to use any language from the material which does not conflict with the Golden Ox advertising.

I think that Mr. Olender would have his clients join in dismissal of this case without any payment or apology to them as long as the slander litigation is not affected.

I will be out of the country for the next ten days or two weeks and I hope that upon my return we can dispose of this matter.

Sincerely yours,

/s/ H. A. N.
HANS A. NATHAN

APPENDIX I

[1]

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CIVIL DIVISION

Civil Action No. 187-65

CANDIS O. RAY t/a CANDIS O. RAY AGENCY,
Plaintiff,

vs.

KANSAS CITY STOCK YARDS COMPANY OF MAINE,
a corporation, t/a GOLDEN OX RESTAURANT;
IMPACT ADVERTISING, INC.;
NATIONAL BROADCASTING COMPANY, INC.;

and

GREGORY J. AIRES, t/a AIRES PUBLISHING COMPANY,
Defendants.

Washington, D. C.,
Wednesday, April 14, 1965

Deposition of

CHARLES F. SNYDER

a witness, called for examination by counsel for the plaintiff, [2] pursuant to notice, a copy of which is attached to the court copy of this deposition, and agreement of counsel as to change in date, in the offices of James S. Gardiner, Esq., 1053 National Press Building, Washington, D. C., beginning at 4:05 o'clock p.m., before Hilmar K. Klamans, Jr., a Notary Public in and for the District

of Columbia, when were present on behalf of the respective parties:

For the Plaintiff:

JAMES S. GARDINER, ESQ.

For the Defendants Golden Ox Restaurant, National Broadcasting Company, and the witness:

TRAMMALL, RAND AND NATHAN
BY: HANS A. NATHAN, ESQ.

EXAMINATION BY COUNSEL FOR:

WITNESS:

CHARLES F. SNYDER

PLAINTIFF

(Mr. Gardiner)
4

EXHIBITS

PLAINTIFF'S EXHIBIT NO.

1 (A copy of a letter entitled, "Notice to all Advertising Media" dated July 10, 1964.)

FOR IDENTIFICATION
40

---

[3] MR. GARDINER: I would like to make a brief statement.

At approximately 11:15 this date, I was served with a copy of a motion to continue the deposition filed on behalf of Jack H. Olender, attorney for Impact Advertising, Inc. In view of the fact that Mr. Olender did not

request to go to court prior to the taking of the deposition of Charles Snyder, it is my opinion that the particular motion is of no effect.

I was willing if and when Mr. Olender wanted to take the matter up with the judge sitting in motions court and would have appeared at any time prior to the taking of this deposition.

That is all I have to say.

MR. NATHAN: I received a phone call from Mr. Olender prior to the service of the motion and I asked him whether he was going to go down to court and take it up as a preliminary matter. He said he was not and suggested to me that the filing of the motion relieved me from producing the witness. My own understanding of the law is different and I called you, Mr. Gardiner, and indicated to you that this was happening and I was personally willing to continue the deposition, but if you were not going to continue it, I felt that I would have to produce a witness and could not take a chance with regard to sanctions under Rule 37.

Mr. Olender said he would move that the deposition be [4] suppressed and not filed, but under the circumstances I have produced the witness and will abide by the ruling of the court.

Personally, I think the motion is moot, but at the moment the deposition is being taken. It is up to you and Mr. Olender. I reserve the right to file such response to any further motion as may be indicated.

Thereupon,

CHARLES F. SNYDER

a witness, was called for examination by counsel for the plaintiff and, after having been sworn by the notary, was examined and testified as follows:

* * * *

APPENDIX J

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
CIVIL DIVISION

Civil Action No. 737-65

RUTH G. GRAZE,
Plaintiff,

vs

CANDIS O. RAY,
Defendant.

Washington, D. C.,
Thursday, May 6, 1965.

Deposition of

WILLIAM LEGG,

a witness, called for examination by counsel for defendant, pursuant to notice, a copy of which is attached to the court copy of this deposition, in the law offices of James S. Gardiner, 1053 National Press Building, Washington, D. C., beginning at 2:10 p.m., before Robert L. Friedli, a notary public in and for the District of Columbia, when were present on behalf of the respective parties:

JACK H. OLENDER, ESQ., for the plaintiff.

JAMES S. GARDINER, ESQ., for the defendant.

Also present: *Hans A. Nathan, Esq.*, and Candis O. Ray.

* * * *

APPENDIX K

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
Civil Division

Civil Action No. 187-65

CANDIS O. RAY t/a CANDIS O. RAY AGENCY,
Plaintiff,

v.

KANSAS CITY STOCK YARDS COMPANY OF MAINE,
A CORPORATION t/a GOLDEN OX RESTAURANT

and

IMPACT ADVERTISING, INC.

and

NATIONAL BROADCASTING COMPANY, INC.

and

GREGORY J. AIRES t/a AIRES PUBLISHING COMPANY,
Defendants.

ORDER

This Matter having come on by motion and supplemental prayer of defendant Impact Advertisting, Inc., and by opposition thereto by plaintiff and by defendant Kansas City Stock Yards Company of Maine, and by argument of counsel, it is by the Court, this 17th day of May, 1965,

ORDERED,

1. That the deposition of Charles F. Snyder taken on April 14, 1965, not be used for any purpose in this cause:

2. That the deposition of Charles F. Synder may be taken upon the filing of a Notice of Taking Deposition; and

3. That if the deposition of Charles F. Synder is taken, the party taking it will pay Twenty-Five ($25.00) Dollars counsel fees to Hans A. Nathan, Attorney for defendant Kansas City Stock Yards of Maine.

JUDGE

APPENDIX L

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 187-65

CANDIS O. RAY t/a CANDIS O. RAY AGENCY,
Plaintiff,

vs.

KANSAS CITY STOCK YARDS CO. OF MAINE, ET AL.,
Defendants.

OPPOSITION TO CALENDAR CASE FOR TRIAL

Comes now the plaintiff by and through her attorney and opposes the motion to place this cause on the Ready Calendar, and represents the following:

1. That Plaintiff's case is not ready for trial.

2. That Plaintiff plans and intends to take further discovery under the Federal Rules of Civil Procedure.

3. That Plaintiff is presently out of the District of Columbia and counsel plans to confer with her upon her return.

4. And for such other reasons as may be advanced at the time of hearing of this matter.

/s/ JAMES S. GARDINER
Attorney for Plaintiff
1053 National Press Building
Washington, D.C.

CERTIFICATE OF SERVICE

I certify that a copy of above was mailed this 26th day of May 1965, to Hans A. Nathan, 1730 K Street, N.W., Washington, D.C., and Jack H. Olender, Esquire, 910 - 17th Street, N.W., Washington, D.C., Attorneys for defendants.

/s/ JAMES S. GARDINER

APPENDIX M

Law Offices
JACK H. OLENDER
Washington, D. C.

September 4, 1965

James S. Gardiner, Esq.
National Press Building
Washington, D. C. 20004

Re: Candis O. Ray Litigation

Dear Jim:

I have not heard from you since our conversation of August 27. At that time I informed you that my client Mrs. Ruth Graze was willing to enter into a deposition of the litigation involving her and your client Miss Ray upon execution of a letter from Miss Ray acknowledging absence of all wrongdoing by Mrs. Graze. I have since talked with Mrs. Graze, and while she is willing to forego reimbursement of her considerable expenses of litigation which she feels was thrust upon her without cause, she does insist that such a letter be forthcoming before she will withdraw her claims against Miss Ray.

I would suggest that a letter on Miss Ray's letterhead along the following lines would be satisfactory to Mrs. Graze, would in no way impugn Miss Ray, and would obviate the need for protracted, expensive and *unprofitable* litigation for all concerned:

"Dear Mrs. Graze:

This is to inform you that I have no reason whatsoever to believe that you conduct yourself in your business and personal life by any but the highest standards of integrity, morality and honesty, and that anything you may have heard or thought to the

contrary regarding my attitude toward you and your advertising agency must have been the result of a mistake or misunderstanding.

/s/ Candis O. Ray"

I hope you will favor me with a prompt response and hopefully, the requested letter, as I wish to either dispose of this litigation at this time or proceed with my preparation for trial. I am sending an information copy of this letter to Hans Nathan, Esq.

With kind regards, I am

Very truly yours,

/s/ Jack
Jack H. Olender

JHO/wwc
cc: Hans Nathan, Esq.

APPENDIX N

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
Civil Division
C.A. No. 737-65

RUTH G. GRAZE,
Plaintiff,

v.

CANDIS O. RAY,
Defendant.

CONCLUSIONS OF LAW

1. That the plaintiff has failed to carry her burden of proof by a preponderance of the evidence that the defendant uttered any slanderous statements about plaintiff.

2. That Judgment should be entered for the defendant.

Let Judgment be entered accordingly, _____ 1966.

_____
Judge

FRIEDLANDER & FRIEDLANDER
Mark P. Friedlander
Mark P. Friedlander, Jr.
Blaine P. Friedlander
Harry P. Friedlander
1210 Shoreham Building
806 15th Street, N. W.
Washington, D. C. 20005
Na 8-1116
Attorneys for Defendant.

THIS IS TO CERTIFY That a true copy of the foregoing was mailed, postage prepaid, to Jack H. Olender, 701 Barr Building, Washington, D. C., attorney for plaintiff, this 8th day of April 1966.

_____
Mark P. Friedlander, Jr.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1970

Supreme Court, U.S.
FILED
DEC 18 1970
E. ROBERT SEAVER, CLERK

No. 633

CANDIS O. RAY, t/a CANDIS O. RAY AGENCY,
Petitioner,

v.

KANSAS CITY STOCKYARDS COMPANY OF MAINE, A CORP., t/a GOLDEN OX RESTAURANT, *ET AL.*,

and

RUTH G. GRAZE,
Respondents.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

JACK H. OLENDER,
910 - 17th Street, N. W.
Washington, D. C. 20006
Attorney for Respondents,
J. Gregory Aires, t/a Aires Publishing Co., Impact Advertising Agency, Inc., and Ruth G. Graze

THE CASILLAS PRESS, INC.—1717 K Street, N. W.—Washington, D. C.—223-1220

INDEX

	Page
ORDERS BELOW	1
JURISDICTION	2
STATUTE INVOLVED	2
QUESTIONS PRESENTED	3
STATEMENT OF THE CASE	3
ARGUMENT	6
I. Petitioner Has No Standing To Seek Review As Against Respondent Ruth G. Graze Of Final Order Of Court Of Appeals Three And One-Half Years After It Is Entered	6
II. Petitioner Has No Standing To Seek Review As Against Respondents J. Gregory Aires, t/a Aires Publishing Co., Impact Advertising Agency, Inc., And Ruth G. Graze Of An Order Of The Court Of Appeals In an Appeal That Did Not Involve These Three Respondents	6
III. There Is Not A Scintilla Of Support For Petitioner's Allegations That The Attorneys And Judges Involved Engaged In Collusion And Fraud To Violate Petitioner's Rights Of Equal Protection And Due Process Of Law	7
CONCLUSION	8

CITATIONS

	Page
28 USCA 2101(c)	2

IN THE

Supreme Court of the United States

OCTOBER TERM, 1970

No. 633

CANDIS O. RAY, t/a CANDIS O. RAY AGENCY,
Petitioner,

v.

KANSAS CITY STOCKYARDS COMPANY OF MAINE, A CORP., t/a GOLDEN OX RESTAURANT, *ET AL.*,

and

RUTH G. GRAZE,

Respondents.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

ORDERS BELOW

Petitioner purports to seek review of the following Orders of the United States Court of Appeals for the District of Columbia Circuit:

(a) Orders of April 28, 1970 and June 3, 1970 in Number 23789 Candis O. Ray, t/a Candis O. Ray Agency, Appellant, v. Kansas City Stock Yards Company of Maine, t/a Golden Ox Restaurant, *et al.* (A. 1;2)

(b) Order of February 16, 1967 in Number 20444, Candis O. Ray, Appellant, v. Ruth G. Graze, Appellee. (A. 3)

JURISDICTION

A. The Orders in Number 23789 for which Petitioner seeks review do not appear to involve these Respondents, J. Gregory Aires, t/a Aires Publishing Co., Impact Advertising Agency, Inc., and Ruth G. Graze in any way. The Respondent Ruth G. Graze was not even a party to that action and the Respondents J. Gregory Aires, t/a Aires Publishing Co., and Impact Advertising Agency, Inc. were not parties to the Appeal.

B. The Order in Number 20444 was entered February 16, 1967, more than three and one-half years prior to the Petition's filing. That appeal involved the Respondent Ruth G. Graze but did not involve the Respondents J. Gregory Aires, t/a Aires Publishing Company, and Impact Advertising Agency, Inc.

STATUTE INVOLVED

28 USCA 2101, Supreme Court; time for appeal or certiorari; docket; stay.

> "(c) Any other appeal or any writ of certiorari intended to bring any judgment or decree in a civil action, suit or proceeding before the Supreme Court for review shall be taken or applied for within ninety days after the entry of such judgment or decree. A justice of the Supreme Court, for good cause shown, may extend the time for applying for a writ of certiorari for a period not exceeding sixty days."

QUESTIONS PRESENTED

1. Whether Petitioner has standing to seek review as against Respondent Ruth G. Graze of a final Order of the Court of Appeals three and one-half years after it is entered.

2. Whether Petitioner has standing to seek review as against Respondents J. Gregory Aires, t/a Aires Publishing Co., Impact Advertising Agency, Inc., and Ruth G. Graze of an Order of the Court of Appeals in an appeal that did not involve these three Respondents.

3. Whether the record herein provides a scintilla of support for Petitioner's allegations that the Attorneys and Judges involved engaged in collusion and fraud to violate Petitioner's rights of equal protection and due process of law.

STATEMENT OF THE CASE

A suit alleging infringement of copyright was filed by Petitioner Candis O. Ray, t/a Candis O. Ray Agency, against Kansas City Stockyards Company of Maine, t/a Golden Ox Restaurant; National Broadcasting Company; Impact Advertising Agency and J. Gregory Aires, t/a Aires Publishing Company, on January 20, 1965 in the United States District Court for the District of Columbia, Civil Action No. 187-65.

On March 29, 1965, Ruth G. Graze filed a suit alleging slander against Candis O. Ray in the United States District Court for the District of Columbia, Civil Action No. 737-65.

Petitioner's complaints in this present proceeding as well as in grievance proceedings against the attorneys involved herein and in attempts to have the attorneys involved herein indicted for crimes all seem to center

around a deposition which her counsel took of one Charles F. Snyder in Civil Action Number 187-65. Her counsel noted the deposition for March 25, 1965, then continued the date to April 5, 1965 on which occasion counsel for these Respondents appeared and was advised by Petitioner's counsel that the deposition was continued to April 14, 1965. This date conflicted with an important Bar Association Committee meeting Respondent's counsel had previously scheduled and when Petitioner's counsel refused to change the time or date, Respondent's counsel filed and served on other counsel prior to the scheduled deposition time a Motion to Continue Deposition. (A. 4) Petitioner's counsel proceeded to take the deposition and Respondent's counsel filed a Supplemental Prayer to the Motion requesting that the transcript of the deposition "not be permitted filing . . . and be held for nought." (A. 7) After argument in open Court the Honorable Luther W. Youngdahl on May 17, 1965 granted the Motion requesting that the deposition not be used for any purpose but permitting the deposition to be taken again. (A. 8)

The slander suit was tried without a jury before the Honorable Oliver Gasch on April 4, 5, 1966 which resulted in a judgment in favor of Respondent Ruth G. Graze against Petitioner Candis O. Ray in the amount of $250.00 compensatory damages and $250.00 punitive damages. Petitioner appealed that judgment to the United States Court of Appeals for the District of Columbia Circuit in Appeal Number 20444 and the judgment of the District Court was affirmed on February 16, 1967. (A. 3) No further action was taken by Petitioner regarding this slander action until her filing of the instant petition on September 1, 1970.

On August 26, 1966, the Petitioner executed, for consideration of $2,000.00, releases and praecipe of dismissal of the infringement action as to Respondents Kansas City

Stock Yards of Maine, t/a Golden Ox Restaurant and NBC. She subsequently, beginning in September, 1969, filed various motions to set aside the partial settlement all of which were denied by the District Court and she appealed to the United States Court of Appeals for the District of Columbia Circuit in Number 23789 which appeal was dismissed April 28, 1970 (A. 1), and rehearing denied June 3, 1970. (A. 2) Petitioner seeks review of these Orders herein.

Petitioner filed with the Committee on Admissions and Grievances, United States District Court for the District of Columbia, a complaint against lawyers, including her own lawyer, involved in the infringement case and the slander case. Counsel for these Respondents filed an Answer under Oath to the Complaint denying any conspiracy to defraud petitioner or any other wrongdoing (A-8), as did the other counsel.

On June 17, 1968 the Grievance Sub-Committee notified Petitioner that "It was the conclusion of the Committee that the record does not disclose facts which, in its opinion, would warrant it in seeking disciplinary action against the attorneys involved." (A. 11) Subsequently, Petitioner was able to get the Committee to reopen the matter for hearing but she has had scheduled hearings postponed so that the Complaint is still pending without a hearing ever being held.

According to statements made by the Petitioner in the United States District Court for the District of Columbia, she has also been attempting to have the lawyers involved indicted for crimes which she alleges were committed by them presumably regarding the taking of the deposition of Charles F. Snyder. Apparently no indictments have been obtained.

ARGUMENT

I. PETITIONER HAS NO STANDING TO SEEK REVIEW AS AGAINST RESPONDENT RUTH G. GRAZE OF FINAL ORDER OF COURT OF APPEALS THREE AND ONE-HALF YEARS AFTER IT IS ENTERED.

The slander action which resulted in an affirmance against Petitioner by the United States Court of Appeals for the District of Columbia Circuit on February 16, 1967, is sought to be reviewed by Petitioner some three and one-half years late. Petitioner brushes aside the time limitations of 28 USCA 2101(c) with the statement at page 6 of her Petition that the conduct of counsel which she perceives as fraud and collusion "vitiates the time statute". Petitioner was represented by competent and experienced counsel in the slander trial and appeal. Perhaps it is significant that she has not filed complaints with the grievance committee against her trial and appeal counsel in the slander suit and she apparently has not sought indictments against said counsel. Her counsel made all relevant arguments for her in the trial and appeal of the slander suit and it should not be re-opened at this time.

Assuming *arguendo* that fraud would vitiate the "time statute" as argued by Petitioner there is not a scintilla of evidence of fraud, as argued below in Argument III.

II. PETITIONER HAS NO STANDING TO SEEK REVIEW AS AGAINST RESPONDENTS J. GREGORY AIRES, T/A AIRES PUBLISHING CO., IMPACT ADVERTISING AGENCY, INC., AND RUTH G. GRAZE OF AN ORDER OF THE COURT OF APPEALS IN AN APPEAL THAT DID NOT INVOLVE THESE THREE RESPONDENTS.

The Orders in Number 23789 involve Petitioner's attempts to set aside her settlement agreement with Respondents Kansas City Stockyards Company of Maine, t/a Golden Ox Restaurant and NBC in the infringement

suit. It does not involve Respondents J. Gregory Aires, T/A Aires Publishing Company and Impact Advertising Agency, Inc. as Petitioner did not settle with them and her claims against them are still pending in the District Court after two dismissals for Petitioner's failure to appear for pre-trial (A. 12) and trial were set aside. Ruth G. Graze was not even a party to the infringement suit.

It seems perfectly clear that these Respondents are in no way involved in the review of the Orders in Number 23789 involving the attempted setting aside of a settlement and release.

III. THERE IS NOT A SCINTILLA OF SUPPORT FOR PETITIONER'S ALLEGATIONS THAT THE ATTORNEYS AND JUDGES INVOLVED ENGAGED IN COLLUSION AND FRAUD TO VIOLATE PETITIONER'S RIGHTS OF EQUAL PROTECTION AND DUE PROCESS OF LAW.

Petitioner has pieced together every occurrence in her unsuccessful litigation as part of a scheme of fraud, conspiracy and collusion on the part of her own counsel, adverse counsel and Federal Judges all calculated to deprive her of her rights. Nothing could be further from the truth. The proceedings below were fiercely adversary. In fact, District Court Judge Luther W. Youngdahl admonished Petitioner's counsel for failure to observe common courtesies in ignoring these Respondents' counsel's request for a rescheduling of a deposition. It is around this deposition that Petitioner builds her idea of conspiracy. This is denied under oath in this counsel's Answer to the Grievance Complaint (A. 9) and in the other counsel's Answers to the Grievance Complaint and the circumstances demonstrating the strict adversary nature of the proceedings are set out in the Motion to Continue Deposition (A. 4) and Supplemental Prayer. (A. 7)

It is unfortunate that Petitioner has viewed honest competent and loyal counsel and an impartial judiciary as conspirators against her. However, it is perhaps more unfortunate for the innocent victims who are being dragged through a seemingly endless gantlet of court proceedings and complaints because of Petitioner's mistaken views of her litigation disappointments.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be denied.

Respectfully submitted,

JACK H. OLENDER
910 Seventeenth Street, N.W.
Washington, D.C. 20006
Attorney for Respondents

APPENDIX

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

SEPTEMBER TERM, 1969

[Filed April 28, 1970, United States Court of Appeals
for the District of Columbia Circuit.
/s/ Nathan J. Paulson, Clerk.]

Civil 187-65

No. 23,789

CANDIS O. RAY t/a CANDIS O. RAY AGENCY,
Appellant,

v.

KANSAS CITY STOCK YARDS COMPANY OF MAINE,
t/a GOLDEN OX RESTAURANT, ET AL.

Before: Bazelon, Chief Judge, MacKinnon,
Circuit Judge, in Chambers.

ORDER

On consideration of appellees' motion to dismiss the appeal and of the responsive pleadings filed with respect thereto, it is

ORDERED by the Court that appellees' aforesaid motion be granted and this appeal is dismissed. See *Mayfair Extension Inc. v. Magee*, 241 F.2d 453, 100 U.S. App. D.C., 48 (1957).

Per Curiam

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

SEPTEMBER TERM, 1969

[Filed June 3, 1970, United States Court of Appeals
for the District of Columbia Circuit,
/s/ Nathan J. Paulson, Clerk.]

Civil 187-65

No. 23,789

CANDIS O. RAY t/a CANDIS O. RAY AGENCY,
Appellant,

v.

KANSAS CITY STOCK YARDS COMPANY OF MAINE,
t/a GOLDEN OX RESTAURANT, ET AL.

Before: Bazelon, Chief Judge, MacKinnon,
Circuit Judge, in Chambers.

ORDER

On consideration of appellant's petition for rehearing, it is

ORDERED by the Court that appellant's aforesaid petition is denied.

Per Curiam
For the Court:

NATHAN J. PAULSON
Clerk

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

SEPTEMBER TERM, 1966

[Filed Feb. 16, 1967, United States Court of Appeals for the District of Columbia Circuit, /s/ Nathan J. Paulson, Clerk.]

Civil 737-65

No. 20,444

CANDIS O. RAY,

Appellant,

v.

RUTH G. GRAZE,

Appellee.

Appeal from the United States District Court for the District of Columbia

Before: Prettyman, Senior Circuit Judge, and Burger and McGowan, Circuit Judges.

JUDGMENT

This cause came on to be heard on the record on appeal from the United States District Court for the District of Columbia, and was argued by counsel.

On consideration whereof It is ordered and adjudged by this Court that the judgment of the District Court appealed from in this cause be, and it is hereby, affirmed.

It is further ORDERED by the Court that appellee herein recover from appellant her taxable costs on this appeal, and have execution therefor.

Per Curiam

Dated: Feb. 16, 1967

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CIVIL DIVISION

CANDIS O. RAY, t/a CANDIS O. RAY AGENCY, *Plaintiff,* v. KANSAS CITY STOCK YARDS COMPANY OF MAINE, A CORPORATION t/a GOLDEN OX RESTAURANT, et al., *Defendants.*	Civil Action No. 187-65

MOTION TO CONTINUE DEPOSITION

Now comes, Jack H. Olender, Attorney for Impact Advertising, Inc., and moves the Court continue the taking of the deposition of Charles F. Snyder, from April 14, 1965 at 4:00 P.M. to a later date, and states as reasons therefor, the following:

1. Your movant received Plaintiff's Notice to Take Deposition of Charles F. Snyder with the designated time being March 25, 1965, at 4:00 P.M. and the designated place being Room 1053 National Press Building.

2. Subsequently, your movant was informed that the deposition was continued to April 5, 1965 at the same time and place.

3. Your movant did go to the designated place at the designated time and was told by James S. Gardiner, Esq., attorney for plaintiff, that the deposition was now continued to April 14, 1965, 4:00 o'clock, and that Mr. Gardiner had had someone in his office and so did not call your movant to notify him of the continuance.

4. Your movant later discovered that he already had a meeting to attend scheduled by the Negligence Committee of the Bar Association of the District of Columbia on April 14, 1965, 4:00 o'clock which meeting will be devoted to matters important to the development of tort law and traffic safety in the District of Columbia. Your movant mailed plaintiff's attorney a letter on April 9, 1965, stating:

> "Regarding the deposition now re-set for April 14, 4:00 o'clock, I have a Bar Association committee meeting which I must attend at that time. I will be free prior to 3:30 o'clock on that afternoon and all afternoon on April 13, 15, 20, 22. I will appreciate your re-setting the deposition and advising me."

5. Your movant received on April 13, 1965, the following letter from plaintiff's attorney:

> "This is to acknowledge receipt of your letter dated April 9th concerning a continuance of the deposition scheduled for April 14th at 4:00 p.m. I have consulted my client, who advised me that her schedule will not permit a continuance of the deposition. Also, my schedule conflicts with yours.

I am sorry that we can not accommodate you on this matter, but if I had known of the situation on April 5th, I could have made other arrangements."

WHEREFORE, it is respectfully prayed that the Court order the continuance of the deposition of Charles P. Snyder from April 14, 1965, 4:00 P.M., to a later date convenient to respective counsel.

Respectfully submitted,

/s/ JACK H. OLENDER
Attorney for Impact Advertising, Inc.
910 – 17th Street, N.W.
Washington, D.C.
296-8984

[Certificate of Service, dated April 14, 1965]

POINTS AND AUTHORITIES

Federal Rules of Civil Procedure, Rule 6(b).

Inherent Powers of Court.

/s/ JACK H. OLENDER
Attorney for Impact Advertising, Inc.

DEFENDANT IMPACT ADVERTISING, INC.'S SUPPLEMENTAL PRAYER TO MOTION TO CONTINUE DEPOSITION

Now comes Jack H. Olender, attorney for Impact Advertising, Inc., and respectfully represents to the court as follows:

1. His secretary, Mr. William W. Colby, served the Motion filed herein by hand on James S. Gardiner, Esq., attorney for plaintiff, on April 14, 1965, before noontime. Mr. Gardiner read the motion and advised Mr. Colby to inform counsel for Impact Advertising, Inc., that Mr. Gardiner was proceeding with the deposition of Mr. Charles F. Snyder as scheduled.

2. Your movant is advised and, therefore, avers that despite the motion filed herein, Mr. Gardiner did in fact, take the deposition of Mr. Snyder as scheduled, April 14, 1965.

WHEREFORE, your movant prays (1) that the court order the transcript of the deposition of Charles F. Snyder taken April 14, 1965 not be permitted filing in this case and be held for nought, and (2) that the court allow counsel for defendant Impact Advertising, Inc. reasonable counsel fees against plaintiff and against plaintiff's attorney, James S. Gardiner, Esq.

Respectfully submitted,

/s/ JACK H. OLENDER
Attorney for Impact Advertising Inc.

[Certificate of Service, dated April 21, 1965]

ORDER

This Matter having come on by motion and supplemental prayer of defendant Impact Advertising, Inc., and by opposition thereto by plaintiff and by defendant Kansas City Stock Yards Company of Maine, and by argument of counsel, it is by the Court, this 17th day of May, 1965,

ORDERED,

1. That the deposition of Charles F. Snyder taken on April 14, 1965, not be used for any purpose in this cause;

2. That the deposition of Charles F. Synder may be taken upon the filing of a Notice of Taking Deposition; and

3. That if the deposition of Charles F. Snyder is taken, the party taking it will pay Twenty-Five ($25.00) Dollars counsel fees to Hans A. Nathan, Attorney for defendant Kansas City Stock Yards of Maine.

/s/ LUTHER W. YOUNGDAHL
JUDGE

IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF COLUMBIA
COMMITTEE ON ADMISSIONS AND GRIEVANCES

In the Matter of
Complaint of Candis O. Ray
Against
James S. Gardiner,
Hans A. Nathan, and
Jack H. Olender

ANSWER OF JACK H. OLENDER

DISTRICT OF COLUMBIA, ss:

Jack H. Olender, being first duly sworn on oath according to law depones and says as follows:

1. That he is a member of the Bar of this Court and does represent Impact Advertising Inc. and Gregory J. Aires, T/A Aires Publishing Company, in Civil Action No. 187-65, in which the complainant Candis O. Ray appears as plaintiff; and that he did represent Ruth G. Graze in Civil Action No. 737-65 and Appeal No. 20,444 in the United States Court of Appeals for the District of Columbia Circuit in which the complainant appeared, respectively, as defendant and appellant.

2. That he at no time entered into any conspiracy with Candis O. Ray's former counsel James S. Gardiner, Esq., and/or Hans A. Nathan, Esq., attorney for Kansas City Stock Yards Company of Maine, and for National Broadcasting Company, Inc., in Civil Action No. 187-65, or with anyone else regarding complainant's cause or causes.

3. That he does not have and does not have knowledge of many of the documents referred to in the Complaint but does not deem them necessary to this Answer.

4. That he incorporates herein as Exhibit A the attached copy of Motion to Continue Deposition, Points and Authorities, and Defendant Impact Advertising, Inc.'s Supplemental Prayer to Motion to Continue Deposition.

5. That he was served with a notice to take the deposition of Charles F. Snyder, in Civil Action No. 187-65, with the designated date being March 25, 1965. Subsequently, he received notice that the said deposition would be taken April 5, 1965, 4:00 p.m., at Room 1053

National Press Building, and having received no notice or indication from anyone that the said deposition would not be taken at that time and place, he appeared for the deposition. He was advised by Mr. Gardiner that the deposition had been continued to April 14, 1965, at 4:00 p.m. To the best of his recollection, he did not see the complainant in Mr. Gardiner's office when he appeared for the deposition April 5, 1965, and engaged in no conversation with her.

6. That subsequent to April 5, 1965, he became aware of a previously scheduled meeting of the negligence committee of the Bar Association of the District of Columbia, in which committee he took an active part, for April 14, 1965 at 4:00 p.m. He requested Mr. Gardiner by letter dated April 9, 1965, to reset the deposition for another time or date, and Mr. Gardiner, by letter received April 13, 1965, declined to do so.

7. That he had his secretary serve by hand the attached Motion and Points and Authorities on Mr. Gardiner and Mr. Nathan, before noon-time, April 14, 1965, and the original filed in Court. His secretary advised him that Mr. Gardiner had read the pleadings and was proceeding with the deposition. He then talked by telephone with Mr. Nathan, informed Mr. Nathan that in his opinion it would be highly improper to proceed with the deposition with the motion pending and that, under the circumstances, Mr. Nathan could properly refrain from producing Mr. Snyder, an employee of one of his clients, for deposition pending determination of the motion. Mr. Nathan indicated he would produce Mr. Snyder for the deposition on 4:00 p.m. that day, and your respondent indicated that he would move to prevent the deposition from being filed in the case. He at no time "agreed" or conspired with Mr. Nathan or anyone else to move to suppress the deposition, but announced his intention to move to exclude use of the deposition and successfully

so moved to protect his client's interests under the applicable rules.

8. That Opposition to Motion to Continue Deposition was filed by Mr. Gardiner and that, to the best of his recollection, Mr. Gardiner did orally argue against your respondent's motion.

9. That the proceedings complained of were, contrary to the allegations of the complaint, completely "adversary" in every sense of the word.

10. That he does not have knowledge of the other allegations of the complaint which do not pertain to him.

/s/ JACK H. OLENDER

Subscribed and sworn to this _____ day of February, 1968.

/s/ _____

Notary

My commission expires _____

United States District Court for the District of Columbia
Committee on Admissions and Grievances
ROOM 6409 UNITED STATES COURT HOUSE
Washington, D.C. 20001

June 17, 1968

Miss Candis O. Ray
Candis O. Ray and Associates
1545 Eighteenth Street, N.W.
Washington, D.C. 20036

At its meeting held on Friday last, the Grievance Subcommittee carefully reviewed your complaint against

attorneys Hans A. Nathan, James S. Gardiner and Jack H. Olender, the answers filed by the attorneys, and your comments on the answers filed.

C O P Y

It was the conclusion of the Committee that the record does not disclose facts which, in its opinion, would warrant it in seeking disciplinary action against the attorneys involved. Accordingly, the complaint was dismissed.

Yours very truly,

/s/ RALPH A. CURTIN
Secretary

cc: Hans A. Nathan, Esq.
James S. Gardiner, Esq.
Jack H. Olender, Esq.

[Filed, February 11, 1969]

ORDER VACATING DEFAULT ON COUNTERCLAIMS AND DISMISSAL OF CAUSE

This cause having been duly assigned for pretrial this 11th day of February, 1969, and the default on defendants' counterclaims and the dismissal of the cause having been declared by orders of the Court of January 14, 1969, it having been further declared that said orders would be vacated if plaintiff appeared at the pretrial on this date, and plaintiff having appeared at said pretrial; the case having been pretried, it is

ORDERED: That the default on defendants' counterclaims be and it hereby is vacated, and that the dismissal of the cause be and is hereby vacated, the case being restored to the calendar.

A TRUE COPY
Robert M. Stearns, Clerk
/s/ JAMES P. CAPITANIO,
Deputy Clerk

/s/ JOHN J. SIRICA
Judge

SUPREME COURT, U. S.
FILED

No. 633

IN THE

Supreme Court of the United States

OCTOBER TERM, 1970

CANDIS O. RAY, t/a CANDIS O. RAY AGENCY,
PETITIONER

v.

KANSAS CITY STOCKYARDS COMPANY OF MAINE, a corporation, t/a GOLDEN OX RESTAURANT, and NATIONAL BROADCASTING COMPANY, INC., *et al.*,
RESPONDENTS

On Petition for a Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

---

BRIEF OF RESPONDENTS KANSAS CITY STOCKYARDS COMPANY OF MAINE, A CORPORATION, AND NATIONAL BROADCASTING COMPANY, INC., IN OPPOSITION

Trammell, Rand & Nathan
Thomas G. Laughlin
Attorneys for Respondents
1730 K Street, N.W.
Washington, D.C. 20006

Washington, D. C. · THIEL PRESS · 202 · 393-6525

INDEX

	PAGE
OPINIONS BELOW	1
QUESTION PRESENTED	2
STATUTES INVOLVED	2
STATEMENT	2
ARGUMENT	7
I. The Action of Courts Below was in Compliance with Rule 60(b) F.R.C.P.	7
II. Review is Not Indicated by Any Reasons Under Rule 19 of this Court	9
CONCLUSION	10

CITATIONS

CASES:

MacLeod v. D.C. Transit System, Inc., 283 F.2d 194, 108 U.S.App.D.C. 399 (1960)	8
Mayfair Extension, Inc. v. Magee, 241 F.2d 453, 100 U.S. App.D.C. 48 (1967)	7
Westerly Electronics Corp. v. Walter Kidde & Co., Inc., 367 F.2d 269 (2 C.A. 1966)	9

STATUTES & RULES:

28 U.S.C. 1254(1)	2
Rule 60(b) Federal Rules of Civil Procedure	2, 7
Rule 19, Rules of the United States Supreme Court	2, 9, 10

APPENDIX

EXHIBIT A Order of District Court Denying Plaintiff's Motion To Set Aside Settlement, filed Oct. 17, 1969	1a
EXHIBIT B Order of Court of Appeals Granting Appellees' Motion To Dismiss Appeal, filed April 28, 1969	2a

PAGE

EXHIBIT C

Petitioner's Letter of Complaint to Grievance Committee, dated Dec. 23, 1967 ..... 3a

EXHIBIT D

Verified letter of Attorney Hans A. Nathan, responding to Petitioner's letter of complaint to Grievance Committee, dated Feb. 28, 1968 ..... 9a

EXHIBIT E

Letter of Chief Deputy Clerk of Supreme Court to Hans A. Nathan, Esq., dated Nov. 18, 1970 ..... 15a

EXHIBIT F

Complaint of Plaintiff below, filed Jan. 25, 1965 ..... 16a

EXHIBIT G

Affidavit of John Gibson Semmes, Esq., dated March 18, 1968 ..... 19a

EXHIBIT H

Settlement Agreement & Mutual Release, dated Aug. 26, 1966 ..... 20a

EXHIBIT I

Assignment dated Aug. 26, 1966 ..... 24a

EXHIBIT J

Praecipe of Dismissal of Complaint & Counterclaim, with Prejudice, dated Aug. 26, 1966 ..... 26a

EXHIBIT K

Motion To Set Aside Partial Settlement & Title Transfer Under Duress, filed Sept. 16, 1969 ..... 27a

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1970

No. 633

CANDIS O. RAY, t/a CANDIS O. RAY AGENCY,
PETITIONER

v.

KANSAS CITY STOCKYARDS COMPANY OF MAINE, a corporation, t/a GOLDEN OX RESTAURANT, and NATIONAL BROADCASTING COMPANY, INC., et al.,
RESPONDENTS

On Petition for a Writ of Certiorari to the United States Court of Appeals for the District of Columbia

BRIEF FOR THE RESPONDENTS, KANSAS CITY STOCKYARDS COMPANY OF MAINE, A CORPORATION, T/A GOLDEN OX RESTAURANT, AND NATIONAL BROADCASTING COMPANY, INC., IN OPPOSITION

OPINIONS BELOW

The order of the District Court denying Petitioner's motion to set aside settlement and dismissal of her action below (Exh. A, App. p. 1a, infra) is not reported. The order of the Court of Appeals dismissing the appeal (Exh. B, App. p. 2a, infra) is not reported.

JURISDICTION

Petitioner's complaint below was dismissed as settled and satisfied on August 26, 1966. The order of the District Court denying Petitioner's motion to set aside the settlement and dismissal with prejudice was entered October 17, 1969. The order of the Court of Appeals granting Respondents' motion to dismiss the appeal from said denial was entered on April 28, 1970 and a petition for re-hearing was denied on June 3, 1970. The petition for writ of certiorari was filed on September 1, 1970, invoking this Court's jurisdiction under 28 U.S.C. § 1254(1).

QUESTIONS PRESENTED

1. Whether, in light of the facts and evidence, the petition for writ of certiorari filed herein has any substance in fact or law.

2. Whether the review sought by the Petitioner is available under Rule 19 of this Court's Rules.

STATUTES AND RULES INVOLVED

28 U.S.C. § 1254(1); Rule 60(b) F.R.C.P.

STATEMENT

Introduction

This case involves an attempt by the Petitioner herein to seek review of the dismissal of her appeal to the United States District Court for the District of Columbia Circuit, from an order of the United States District Court for the District of Columbia denying Petitioner's motion to reinstate a complaint dismissed three years prior to such motion. Petitioner (who at all times was represented by experienced and reputable counsel) agreed to the dismissal, (which she sought to set aside three years later) after lengthy negotiations, in consideration of the dismissal of a substantial

counterclaim against her, together with the payment to her of the sum of Two Thousand Dollars.

In aid of her motion and in aid of her petition here, Petitioner makes allegations of fraud and conspiracy against her own counsel and all opposing counsel, which allegations were considered by the Courts below and found totally without substance. These allegations of fraud and conspiracy do not even relate to the merits of the settlement, but to the fact that—by agreement of counsel—the deposition of a witness (suppressed by order of the District Court) was not transcribed. The same groundless allegations of fraud and conspiracy were the subject of a complaint to the Grievance Committee and a complaint to the United States Attorney for the District of Columbia. Neither authority took any action.[1]

In view of the obvious lack of merit of the petition for certiorari, counsel for Respondent Golden Ox determined that no response was necessary, but rejected the repeated allegations of fraud and conspiracy for the record in a letter to the clerk of this Court (Exh. D, App. p. 9a, infra). The Clerk of the Court telephoned counsel for Respondent to indicate that the rules of this Court did not provide for the

---

[1] Copy of Petitioner's complaint to the Grievance Committee and Respondent's Counsel's verified answer to the complaint are attached hereto as Exh. C., App. p. 3a, infra. The gravamen of the complaint is as follows:

The deposition of an employee of Respondent Golden Ox was taken by Petitioner's Counsel while a motion by Counsel for Co-Defendant Impact to re-schedule it was pending. Petitioner was present during the taking of the deposition. The motion resulted in an order suppressing the deposition, with leave to take it again when Counsel, who had moved to re-schedule it, could be present. Pending the re-taking of the deposition, all Counsel, including Petitioner's Counsel, agreed that the suppressed deposition would not be transcribed. Although Petitioner later had the deposition transcribed and filed with the Court, without objection of any of opposing Counsel, she has based all her allegations of fraud and conspiracy on this occurrence.

filing of a letter in place of a formal response, and returned the letter to counsel. Counsel then formally waived the filing of a response but was directed to file the instant opposition, by a letter from the Clerk of the Court (Exh. E, App. p. 15a, infra).

The Facts

Respondent Kansas City Stockyards Company of Maine, a corporation, owns and operates the Golden Ox Restaurant (hereinafter referred to as Golden Ox) in Washington, D.C. In 1964 Respondent, National Broadcasting Company, Inc., through its Washington affiliate, broadcast certain advertisements for the Golden Ox. In 1963 and 1964 Petitioner, CANDIS O. RAY, trading as the Candis O. Ray Agency, operated an advertising agency in the District of Columbia. She had handled advertising for the Golden Ox in 1963 and 1964.

The Golden Ox, sometime in 1964, terminated Petitioner's employment in favor of her successor, Impact Advertising Agency, Inc., operated by one Ruth Graze. On January 25, 1965, Petitioner filed a complaint (Exh. F, App. p. 16a, infra) alleging infringement of copyright, unfair competition, and breach of contract, against Golden Ox, National Broadcasting Company, Impact Advertising Agency, Inc., and Gregory J. Aires, a publishing company handling printed Golden Ox advertising. Golden Ox filed a substantial counterclaim alleging wrongful appropriation of advertising material and interference with contractual relations. After discovery, extended negotiations between the Golden Ox, National Broadcasting Company[2] and Petitioner resulted in a settlement and disposition of the suit as among these three parties by Petitioner accepting $2,000 and dismissal of the counterclaim in full settlement of her claim.

---

[2] The Golden Ox agreed to indemnify or hold harmless National Broadcasting Company in the event any claim, suit or demand arose concerning the advertising.

Petitioner at all times was represented by experienced and reputable counsel. Her first attorney, John S. Semmes, rejected a settlement offer of $500.00 and later agreed to accept an offer of $1,000.00 (Exh. G, App. p. 19a, infra) for a full and total release of all claims and an assignment to the Golden Ox of whatever copyright claims Petitioner might have. Petitioner relieved Mr. Semmes and retained James S. Gardner, Esq., an equally experienced and reputable member of the local bar. After extended further negotiations, Petitioner through counsel accepted $2,000.00 in full settlement together with dismissal of the counterclaims. Petitioner at all times during the negotiations was represented by counsel of her choice and was fully advised of the negotiations as they progressed.

On August 26, 1966, agreements, including mutual releases and an assignment, were negotiated, drafted, discussed between Petitioner and her counsel, redrafted and finally executed. A praecipe dismissing the complaint with prejudice against the Golden Ox and National Broadcasting Company was filed and the counterclaim dismissed. (Exhs. H, I, J, App. pp. 20a, 24a, 26a, infra).

Petitioner continued her action against the remaining Defendants, Impact Advertising and Gregory J. Aires.

Golden Ox participated no further in this action until more than three years later when a "motion to set aside partial settlement and title transfer under duress" (Exh. K, App. p. 27a, infra) was filed and served on September 16, 1969. Golden Ox and National Broadcasting Company, Inc. filed their opposition, and after service of additional affidavits, exhibits and replies and a full hearing in open court, the District Court entered an order denying the motion (Exh. J, App. p. 26a, infra), holding that Petitioner's claim was without merit and barred by the doctrine of laches. Rehearing was denied by the District Court.

Petitioner appealed to the United States District Court for the District of Columbia from the order denying reinstatement. Golden Ox and National Broadcasting Company

filed a motion to dismiss the appeal, which was granted by the Court on April 28, 1970 (Exh. K, App. p. 27a, infra). Again, a petition for re-hearing was denied (June 3, 1970). The petition for writ of certiorari was filed September 1, 1970.

The proprietress of Impact Advertising Agency, Ruth Graze, had filed a separate complaint for slander against the Petitioner herein as Civil Action No. 737-65, which resulted in a judgment against Petitioner and which judgment was affirmed on appeal by the United States Court of Appeals for the District of Columbia in Case No. 20444, unreported. Neither the Golden Ox nor National Broadcasting Company was a party to such action.[3]

These two separate actions below, i.e., *Candis Ray v. Kansas City Stockyards Company, et al.*, C.A. #187-65 and *Ruth Graze v. Candis O. Ray*, C.A. #737-65, were never consolidated. The Petitioner's appeals from each of the judgments likewise were never consolidated into one action, although Petitioner now seems so to allege.

Petitioner is a mature, educated and sophisticated businesswoman, experienced in the competitive world of advertising and finance, who, in the five-year course of her litigation with Respondents, has been represented by a battery of experienced attorneys, including the following members of the local Bar: Leonard Collins, Fulton Brylawski, Mark P. Friedlander, Harry N. Rosenfield, Turner Smith, James S. Gardiner, and John G. Semmes. She now proceeds in proper person.

---

[3]The slander complained of consisted of an alleged statement by Petitioner to the effect that the change of advertising agencies had been brought about by an improper relationship between the Golden Ox Manager, Snyder, and Miss Graze.

ARGUMENT

I. The Action of the Courts Below Is in Compliance with Rule 60(b), F.R.C.P., and Shows No Abuse of Discretion by Either Court.

The instant case constitutes an abuse by the Petitioner of the judicial process. Rather than being entitled to relief by this Court because of any actual or imagined infringement of her Constitutional, legal or other rights, the Petitioner, in filing this petition, abuses the processes of justice to perpetuate an ancient grudge.

Over thirty-six months after the dismissal of Petitioner's action, with prejudice, Miss Ray changed her mind about the settlement she had accepted, which brought about this dismissal, and filed a motion to set aside both the settlement and the dismissal, vaguely alleging fraud and conspiracy as grounds for her motion. Two years prior to making this motion, she had made the same allegations of fraud and conspiracy in a complaint to the Grievance Committee.

The District Court, after a full hearing, found that her allegations were without substance and that her motion to set aside the settlement that she had entered into after long negotiations with the advice of her experienced and reputable attorneys, was barred by laches. In dismissing her appeal from the denial of the belated motion, the Court cited *Mayfair Extension, Inc. v. Magee*, 241 F.2d 453, 100 U.S. App. D.C. 48, 1967, which holds:

> "Under this rule [60(b)] a default judgment may be set aside for 'fraud . . . , misrepresentation, or other misconduct of an adverse party.' Appellant argues that a motion to vacate for such reason may be brought any time within one year. But the rule requires that 'The motion shall be made within a reasonable time, *and* [when based upon Rule 60(b)(3)] not more than one year after the [default] judgment . . .'. Thus it was not only necessary that the motion be filed within one year, but also that it be filed within a reasonable time within the one-year period. Upon the record before us,

> the latter requirement is not satisfied. The District Court was, therefore, correct in denying the motion."
> – at p. 454.

In *MacLeod v. D.C. Transit System, Inc.*, 283 F.2d 194, 108 U.S. App. D.C. 399 (1960), where the plaintiff sought to set aside a stipulation of settlement 363 days after judgment was entered, the Court held:

> ". . . We agree that the lapse of time between the settlement on consent judgment and the time when she moved to set aside the settlement also affords a basis for the District Court's action.
>
> * * *
>
> The motion to set aside the settlement and judgment was one addressed to the sound discretion of the District Court. The record shows it was carefully considered and that this discretion was not abused . . ."
> – at p. 195.

MacLeod was a factual situation similar to the instant one. The plaintiff had a succession of attorneys and thereafter quarreled with them. In the instant case, as in *MacLeod*, the Trial Court did not abuse its discretion. Petitioner was given ample opportunity to present any evidence to support the allegations of her motion. She presented none. Continuing complaints of the Petitioner, with a succession of attorneys, a total lack of evidence showing any inequity of the settlement or any fraud inducing her to accept it, show a lack of substance to support the petition filed herein. Continuing discharge of her attorneys, together with the fact that her remaining action in the District Court was twice dismissed and reinstated are ample evidence that this Petitioner was not denied any of her rights; indeed, the complaint against Respondents' attorney, the baseless allegations of fraud, and the continued litigation against Respondents without legal substance, causing much expense and inconvenience to all parties concerned and to the Courts, indicate a true case of harassment and abuse of the litigation process on the part of the Petitioner rather than any denial of her rights.

In *Westerly Electronics Corp. v. Walter Kidde & Co., Inc.*, 367 F.2d 269, 2 C.A. (1966), the Court of Appeals held that the Trial Court did not abuse its discretion in denying plaintiff's motion to amend or modify an order entered on a stipulated settlement of a civil action wherein appellant alleged newly discovered material evidence and fraud as a basis for the relief sought.

> ". . . Clearly, appellant has not demonstrated the abuse of discretion required to reverse the trial judge's decision on Rule 60(b) motion. No showing has been attempted under Rule 60(b)(1). Regardless of the question of whether Rule 60(b)(2) applies to a settlement order, appellant has not demonstrated that the scrap paper was truly newly discovered or that it could not have been found by due diligence. Also, the evidence would have been at best cumulative, and appellant waited ten months after the 'discovery' before moving to amend and modify. Finally, appellant has proffered no clear and convincing proof of fraud in the settlement as required in a Rule 60(b)(3) motion." [Footnotes and citations omitted].
>
> – at p. 270.

The allegation of Petitioner that fraud was perpetuated upon her, thereby violating the Bill of Rights and the Fourteenth Amendment and/or rights of equal protection of the law, or deprivation of due process of the law, is totally without substance.

II. Review Is Not Indicated by Any Reasons Within Rule 19 of the Rules of this Court, Nor Required in the Exercise of this Court's Supervisory Powers.

Petitioner has not shown the conflict of the decision below with that of another Circuit Court of Appeals, or a decision below involving an important question of Federal Law which should be settled by this Court. She has not shown the decision below to be in conflict with any decision of this Court nor has she shown that the Court below departed from the accepted and usual course of judicial procedure,

nor any other "special and important" reasons (within the purview of Rule 19 of this Court) for granting her petition. Nor has petitioner shown any reason why this Court in exercise of its supervisory power should review the considered judgment of two lower Courts. On the contrary, the record shows that Respondents and their Counsel should be protected against the continued harassment by Petitioner through the finality of a denial of her Petition herein.

CONCLUSION

For the reasons stated above, the petition for writ of certiorari should be denied, with costs to be assessed against Petitioner.

Respectfully submitted,

TRAMMELL, RAND & NATHAN

By Thomas G. Laughlin
Attorney for Respondents
1730 K Street, N.W., Suite 308
Washington, D.C. 20006

December, 1970.

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
For the District of Columbia

CANDIS O. RAY, t/a CANDIS O. RAY AGENCY, Plaintiff,	]	
v.	]	Civil Action
KANSAS CITY STOCK YARDS COMPANY OF MAINE, a corporation, t/a GOLDEN OX RESTAURANT, et al., Defendants.	]	No. 187-65

[Filed October 17, 1969]

ORDER

Upon consideration of plaintiff's motion to set aside partial settlement and title transfer effected under duress, defendant's reply, plaintiff's answer to defendant's opposition, and the exhibits submitted by plaintiff in support thereof, and having held a hearing on this motion, it being the opinion of the Court that plaintiff's claim that the settlement signed by plaintiff on August 26, 1966, was entered into under duress, has no merit, and further that this motion is barred by the equitable doctrine of laches, it is this 17 day of October, 1969,

ORDERED that plaintiff's motion be, and the same hereby is, denied.

John J. Sirica
United States District Judge

EXHIBIT B

UNITED STATES COURT OF APPEALS
For the District of Columbia Circuit

No. 23,789 September Term, 1969

Candis O. Ray
t/a Candis O. Ray Agency,
Appellant

v.

Kansas City Stock Yards Company of Maine,
t/a Golden Ox Restaurant, et al.,

Before: Bazelon, Chief Judge, MacKinnon, Circuit Judge, in Chambers.

[Filed April 28, 1970]

ORDER

On consideration of appellees' motion to dismiss the appeal and of the responsive pleadings filed with respect thereto, it is

ORDERED by the Court that appellees' aforesaid motion be granted and this appeal is dismissed. See *Mayfair Extension Inc. v. Magee*, 241 F.2d 453, 100 U.S. App. D.C., 48 (1957).

Per Curiam

EXHIBIT C

CANDIS O. RAY AND ASSOCIATES
Public Relations

1545 Eighteenth Street, Northwest, Washington, D.C. 20036

December 23, 1967

U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA
Admissions and Grievance Committee
Room 6409
3rd and Constitution Avenue, N.W.
Washington, D.C.

Gentlemen:

This complaint is filed with the Grievance Committee on professional misconduct warrenting disciplinary action by the court against the following attorneys: James S. Gardiner, Hans A. Nathan and Jack H. Olender, in that agreement was entered into between and among plaintiff's counsel James S. Gardiner and the defendents' attorneys Hans A. Nathan and Jack H. Olender to withhold from the court records the perjured statement of the key witness - the deposition of Charles F. Snyder - which perjured statement is on the material issue at point in the case; i.e. the signing of a notice identified as PLAINTIFF'S EXHIBIT NO. "L" 3-5-65, copy attached hereto with statement of signature verification by Mr. Stanley Stoller.

Attached hereto are copies of Court Motions and Oppositions To Continue the deposition of Charles F. Snyder and Court Order per same dated May 17, 1965 granting leave of court for plaintiff to question Snyder again with plaintiff's remittance of $25.00 attorney's fee to one of the defense attorneys Hans A. Nathan, which I agreed to give and told my counsel Mr. Gardiner I would be very happy to pay it, for I wanted Olender present during the taking of Snyder's deposition (I submit herewith my letters to counsel Mr. Gardiner dated May 7, 1965 and August 5, 1965 in which

it will be noted that I literally beg him to continue the questioning of Charles Snyder, and agreed to pay him anything he asked. He asked me for a hundred dollars to continue the discoveries, and I agreed to pay it, as noticed by my letter dated August 5, 1965.) Though Mr. Gardiner had taken the case and filed it the way he wanted to, and on the basis of contingency fee, I even agreed to any terms he demanded if he would only continue the discoveries and questioning of Snyder again, for I felt this certainly was a crucial point in the case, especially made clear by the conspiracy between the defendents' attorneys Hans A. Nathan and Jack H. Olender not to appear at the same time for the taking of Snyder's deposition so that the deposition could be placed in a moot or possible invalid position. Three extensions were granted at requests for put-offs by defendents' attorneys Nathan and Olender for the taking of Snyder's deposition (see letters attached between attorneys) and three different dates set up for the actual taking of the Snyder deposition wherein excuses were made by Nathan or Olender on why one or the other could not make an appearance. Once, at a scheduled time agreed by all attorneys for the taking of the Snyder deposition Olender showed up - on April 5, 1965 - and Mr. Nathan did not (thereby having to pay costs of the court reporter, which Mr. Nathan paid, as is evidenced by letters attached between Gardiner and Nathan concerning same) and at this showing of Mr. Olender on the above date he (Olender) asked my counsel Mr. Gardiner and me if we had received his client's libel and slander suit (instituted by Olender for one of the defendents, Mrs. Graze of Impact Advertising as a counter defense to the Infringement (this suit) . . . . . as reported by Mrs. Graze's witness William Legg in his deposition . . . . . wherein he states (page 15) that he telephoned Mrs. Graze about the matter and she reported "Miss Ray had filed suit against her for Infringement of copyright and she had filed suit for slander".)

Further agreement between Mr. Nathan and Mr. Olender is noted on page 3 and Page 4 of Charles F. Snyder's depo-

sition wherein it is stated by Nathan that he received a phone call from Olender concerning the service of a Motion To Continue the taking of Snyder's deposition which service of notice would relieve him (Nathan) of having to appear and would relieve him of "producing the witness" Charles F. Snyder. Note that Olender agreed, however, that if Nathan did produce the witness Charles F. Snyder and appeared anyway he would get the deposition suppressed from the court records, whereupon Mr. Nathan did appear with the witness Charles F. Snyder. (Note attached pages 3 and 4 from Charles F. Snyder's deposition which was taken on date April 14, 1965 in the law office of plaintiff's counsel, James S. Gardiner, 1053 National Press Building, Washington, D.C.) The only persons present at Snyder's deposition testimony were plaintiff's counsel James S. Gardiner who questioned Snyder, Hans A. Nathan counsel for Snyder, and myself (plaintiff) and the court reporter (or "Notary For The District Of Columbia", as stated in deposition) Mr. Hilmar K. Klamans, Jr. who transcribed Snyder's testimony at the deposition. No other persons were present at the deposition other than the names mentioned above.

At the taking of Snyder's deposition I was present, however I did not hear the low voices of the attorneys concerning agreements about "suppressing" or court motions, nor would I have understood what they were talking about nor understood what it meant if I had listened to what they were saying. All I knew was that we were gathered at this meeting for the purpose of a testimony under oath to be recognized by the court. I had no idea that I was being defrauded or deceived in any way. When I heard Snyder strongly deny that he had signed the notice - EXHIBIT "L" 3-5-65 (identified and attached hereto) I then looked squarely in the eyes of Snyder's counsel Hans A. Nathan sitting next to Snyder and Mr. Nathan nodded his head up and down and grinned at me. I knew that Mr. Stan Stoller had witnessed Snyder sign his name to the notice and that as further evidence the monthly billing of the Golden Ox Restaurant, of which Charles Snyder was the manager, was

indeed going through the Impact Advertising, as noticed by the authorized document.

The gross negligence of my counsel James S. Gardiner is evidenced by aforementioned facts, conclusively substantiated in that he made no objection to defense counsel, Jack Olender's demand of the court to suppress from the court records the Snyder deposition (See attached Court Order dated May 17, 1965 in which Olender, as previously agreed with Nathan, asked the court that Snyder's deposition taken on April 14, 1965 "not be used for any purpose in this cause." Mr. Gardiner had prior knowledge of this conspiracy.

Note also attached further evidence of collusion between opposition attorneys - Mr. Nathan's letter to my counsel James Gardiner dated August 5, 1965 in which Mr. Nathan states that they had an agreement . . . . . not to transcribe Snyder's deposition. I knew of no such agreement between attorneys. I offer numerous letters which I wrote to counsel Gardiner requesting that all depositions be filed with the court; that it is my understanding that they would be filed. The deposition of Snyder is the material issue at point. Quoting from Mr. Nathan's letter to Mr. Gardiner dated August 5, 1965. . . . . ." it had been agreed that it would not be transcribed." I knew of no such agreement between attorneys and recently have the file on the case, which I have reviewed for the first time thoroughly.

I was advised by a local attorney who reviewed the file with me to report the herein disclosed misconduct by the named participating attorneys to the Grievance Committee. Upon further review of the file recently, and disclosures stated herein, I notified my counsel, James S. Gardiner, that because of the foregoing and on recent discoveries on review of the case, I had no choice but to file a complaint with the Grievance Committee. Such notice was given to Mr. Gardiner in November, this year (1967), and on December 7, 1967 I filed the complaint. Mr. Gardiner then filed motion to withdraw as counsel giving as his reason at the

hearing in open court that I reported to him about filing a complaint with the Grievance Committee. I appeared at the hearing of his motion held December 22, 1967 because I felt that Mr. Gardiner should return the fees I had paid him if he found he could not fullfil his obligations and responsibilities to the two connecting cases, for I had paid him all that he asked of me to represent me in these cases, yet after accepting my check in the amount of $250.00 for representation in the connecting libel suit brought by Mrs. Graze and Mr. Olender, he abandoned his responsibility to it, and so notified the opposition before telling me. Approximately one year later, on August 26, 1966, I accepted a settlement (agreement effected by instrument of release attached hereto) on the connecting Infringement suit under threat of counsel Gardiner that he would withdraw if I would not accept offer by Nathan.

I agreed to and accepted the settlement offer and conditions noted in Mr. Gardiner's letter of confirmation of settlement to Mr. Nathan dated September 16, 1965 under threat of withdrawal if I did not (see attached letter dated September 16, 1965 with referred-to praecipes filled out ready for filing).

Thereafter, Mr. Gardiner reported to me that he couldn't get Mr. Nathan to keep his commitments with him on the arrangements and agreements as to settlement offers, in which offers he included the Olender clients for settlement and also the separate case of Mrs. Graze - the libel and slander suit - instituted by Olender for her and who represented Mrs. Graze (Impact Adv.) in the Infringement suit.

On September (received by this office) 30, 1965 was yet another release prepared and offered by Mr. Nathan in which he included Olender's clients for dismissal in the Infringement suit, and also the separate case of libel and slander brought by Olender for Mrs. Graze, a defendant to the Infringement suit, as being dismissed as a bargaining condition and factor. (For complete details see my complaint filed with the Grievance Committee December 7, 1967)

Wherefore, I pray this Committee give careful consideration to the facts herein and offer and agree to appear at any designated hearings on same, if and when deemed proper and just.

Respectfully submitted,

/s/ Candis O. Ray

[Notarial certificate dated December 26, 1967]

EXHIBIT D

LAW OFFICES OF

TRAMMELL, RAND & NATHAN

* * *

WASHINGTON, D.C. 20006 * * *

February 26, 1968

Hon. Ralph A. Curtin
Secretary, Committee on Admissions and Grievances
United States Courthouse
Washington, D.C. 20001

Re: Complaint of Miss Candis O. Ray

Dear Mr. Curtin:

Receipt is acknowledged of your letter dated February 1, 1968, together with a complaint dated December 23, 1967, signed by Candis O. Ray, which complaint was received without the attachments referred to therein.

I also want to acknowledge with thanks the extension of one week of the time to reply to your letter, granted upon my telephone request made last week in view of my required presence in California during the early part of the week beginning February 19th.

I have reviewed Miss Ray's letter, my voluminous legal and correspondence files in this case, and a copy of the deposition of Mr. Snyder, which seems to be the gravamen of Miss Ray's complaint.

I want to reject as slanderous and completely unfounded the allegations of Miss Ray's complaint and the use of the terms "conspiracy," "perjured statement of the key witness," etc. The facts in this case, to the best of my recollection, are as follows:

This office represents Golden Ox Restaurant in this city. In June or July of 1964 we were contacted by John Gibson Semmes, Esq., of the firm of Semmes & Semmes, as

representatives of Miss Ray, asserting a claim by Miss Ray in connection with the severance of her relationship as advertising agent for our client, and her replacement by Impact Advertising, another agency. On September 30, 1964 Mr. Semmes withdrew from representing Miss Ray and was replaced by Mr. Gardiner, who filed suit against Golden Ox Restaurant (Golden Ox), the National Broadcasting Company (NBC), the Impact Advertising Company (Impact), and the Aires Publishing Company (Aires), in January of 1965. We entered our appearance for Golden Ox and NBC, Mr. Olender for Impact and Aires.

The deposition of Miss Ray was taken on March 5, 1965, after two postponements at the request of her attorney, and on March 17, 1965 I was served with Mr. Gardiner's notice for the deposition of Mr. Snyder, the local manager of Golden Ox, on March 25th. Having previous commitments to leave the country, I asked Mr. Gardiner for a postponement and we agreed on April 5th. The deposition was again rescheduled for April 14th, for reasons which do not appear from my file. On that day Mr. Olender called me, stated that he had filed a motion to continue the deposition (which had been served on me by hand) and asked me not to produce the witness. On the basis of research done in another case on this very question, I expressed my opinion to Mr. Olender that the mere filing of his motion did not invalidate the notice, but that I was prepared to meet him in Court on that day if he wanted to get an order. Mr. Olender declined and I told him that I would produce the witness, as required. I am attaching a xerox copy of the first two pages of the deposition which indicate clearly the basis for the production of the witness. Mr. Olender, over written and oral opposition by both Mr. Gardiner and myself, obtained an order suppressing the deposition, and I expected the deposition to be rescheduled in accordance with the order so permitting upon payment of a $25.00 counsel fee. Prior to rescheduling the deposition, Mr. Gardiner called me to inquire whether we could not increase our offer of settlement. Inasmuch as the highest demand in this case had been

Six Thousand Dollars and the highest offer we had made was Two Thousand Dollars, I reported to my client, inquiring if they would permit an increase in the settlement offer. My recommendation for an increase was rejected by the client with instructions to decrease the $2,000.00 offer by any additional expenses incurred by them. Therefore, I suggested to opposing counsel that Mr. Snyder's first deposition not be transcribed pending reconsideration by him of the $2,000.00 settlement offer or rescheduling of the Snyder deposition.

After a series of negotiations and communications with a third attorney for Miss Ray, settlement was finally reached, releases were exchanged and a payment of $2,000.00 was made in full satisfaction of all claims against our client.

Miss Ray, however, had the deposition transcribed and I understand from the reporter that the deposition was, in fact, filed in Court. None of the counsel in this case at any time objected either to her having the deposition transcribed, or her filing the deposition in Court.

Subsequent to the settlement, Miss Ray has periodically written letters to Mr. Snyder at his new place of employment and to the undersigned, all of which letters in some way or other refer to the deposition, and some of which included untruthful statements as, for instance, a letter by Miss Ray to Mr. Snyder on November 29, in which she states:

> "Mr. Nathan advises us that your sworn statement concerning the signing of the Notice Mrs. Graze mailed to the stations was your own idea, and that he did not advise you to swear that you did not sign it; that it was your own idea, and that the responsibility is yours. Is this correct?"

Needless to say, the undersigned did not advise Miss Ray of anything and, as a matter of policy, has studiously avoided any communication with her or answering numerous communications she has directed to the undersigned, regardless of whether she was, at the time of such communications, represented by counsel or not.

The undersigned had met Mr. Gardiner during some previous litigation and holds him in high regard. In all discussions of the case Mr. Gardiner's statements have been highly proper, adversary and, in my judgment, in the best interest of his client. I met Mr. Olender only in connection with this litigation, during which litigation he conducted himself in a most formal and adversary in nature manner, which might have been occasioned by the fact that the undersigned made a claim for indemnification against his client in the event of any holding of infringement by Impact resulting in liability of our clients.

There have been no communications between or among counsel except formal communications in connection with the case and, of course, there has been no conspiracy or agreement of any kind. Neither is the undersigned aware of any pressure put by Mr. Gardiner upon his client; on the contrary, I insisted on very explicit releases in this case because of the fact that negotiations for settlement in this case had broken down at least twice prior to final settlement, in view of some unexpected change of heart or counsel by Miss Ray.

My entire file is at the disposal of the Committee if the Committee so desires. In the event that the Committee desires further information, I shall ask my client to waive the attorney-client pi ege so as to enable me to document the above statements by my contemporaneous periodical reports to the clients.

Please be assured that this case was handled properly, carefully and professionally by the undersigned and that, to the best of my knowledge, it was equally carefully, professionally and ethically handled by opposing counsel Mr. Gardiner as well as by Mr. Olender, counsel for the co-defendants.

Respectfully submitted,

/s/ Hans A. Nathan

[Notarial certificate, 26 Feb. 1968]

[Attachment to Exhibit C, Deposition of Charles F. Snyder, Washington, D.C., April 14, 1965, in the United States District Court for the District of Columbia, caption omitted in printing.]

For the Plaintiff: James S. Gardiner, Esq.

For the Defendants Golden Ox Restaurant, National Broadcasting Company, and the witness: Trammall, Rand and Nathan, by: Hans A. Nathan, Esq.

* * * * *

[3] MR. GARDINER: I would like to make a brief statement.

At approximately 11:15 this date, I was served with a copy of a motion to continue the deposition filed on behalf of Jack H. Olender, attorney for Impact Advertising, Inc. In view of the fact that Mr. Olender did not request to go to court prior to the taking of the deposition of Charles Snyder, it is my opinion that the particular motion is of no effect.

I was willing if and when Mr. Olender wanted to take the matter up with the judge sitting in motions court and would have appeared at any time prior to the taking of this deposition.

That is all I have to say.

MR. NATHAN: I received a phone call from Mr. Olender prior to the service of the motion and I asked him whether he was going to go down to court and take it up as a preliminary matter. He said he was not and suggested to me that the filing of the motion relieved me from producing the witness. My own understanding of the law is different and I called you, Mr. Gardiner, and indicated to you that this was happening and I was personally willing to continue the deposition, but if you were not going to continue it, I felt that I would have to produce a witness and could not take a chance with regard to sanctions under Rule 37.

Mr. Olender said he would move that the deposition be [4] suppressed and not filed, but under the circumstances

I have produced the witness and will abide by the ruling of the court.

Personally, I think the motion is moot, but at the moment the deposition is being taken. It is up to you and Mr. Olender. I reserve the right to file such response to any further motion as may be indicated.

Thereupon,

CHARLES F. SNYDER

a witness, was called for examination by counsel for the plaintiff and, after having been sworn by the notary, was examined and testified as follows:

EXAMINATION BY COUNSEL FOR THE PLAINTIFF

BY MR. GARDINER:

Q. Mr. Snyder, would you state your name? A. Charles F. Snyder, S-n-y-d-e-r.

Q. Where do you reside, Mr. Snyder?

MR. NATHAN: Excuse me a minute, Mr. Gardiner. Is it stipulated that all objections except as to the form of the question are reserved until the time of trial?

MR. GARDINER: That is agreed.

BY MR. GARDINER:

Q. Where do you reside? A. 16th and L Streets, Northwest, Washington, D.C.

* * * * *

EXHIBIT E

OFFICE OF THE CLERK
SUPREME COURT OF THE UNITED STATES

November 18, 1970

Jack H. Olender, Esq.
701 Barr Building
Washington, D.C.

RE: RAY v. KANSAS CITY STOCKYARDS COMPANY OF MAINE, ETC., ET AL.
No. 633, October Term, 1970

Dear Mr. Olender:

Although you waived the right to file a brief in opposition to the petition for a writ of certiorari in the above-entitled case, the Court has instructed this office to direct counsel for the respondents to file such a response.

Forty printed copies of the response, together with proof of service thereof, should reach this office on or before December 18, 1970.

Very truly yours,

E. ROBERT SEAVER, Clerk

By /s/ E. P. Cullinan
Chief Deputy

jmh

cc: Hans A. Nathan, Esq.
Candis O. Ray, Esq.

EXHIBIT F

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA
Civil Division

Civil Action No. 187-65

[Caption omitted in printing]

[Filed Jan. 25, 1965]

COMPLAINT FOR INFRINGEMENT OF COPYRIGHT, UNFAIR COMPETITION AND BREACH OF CONTRACT

Comes now the plaintiff, by and through her attorney and states the following:

1. That this Court has jurisdiction of this cause of action pursuant to Title 28, §1338, United States Code.

2. That the plaintiff is a citizen of the United States, a resident of the District of Columbia and has been operating an advertising and public relations agency, specializing in radio and television.

3. That the defendants are doing business in the District of Columbia.

4. That defendant, Kansas City Stock Yards Company of Maine, T/A Golden Ox Restaurant is indebted to plaintiff for breach of contract in the sum of Nine Hundred Three and 60/100 ($903.60) Dollars for services rendered and commissions due for public relations and advertising when said defendant terminated its contract with plaintiff on May 20, 1964.

5. That prior to June, 1964, plaintiff created and wrote material to be used on radio and television entitled "Spoken Commercials" which contains a large amount of material wholly original with plaintiff and is copyrightable subject matter under the laws of the United States.

6. That on June 12th and 17th, 1964, plaintiff complied in all respects with Title 17, U.S. Code and all other laws

governing copyright, and secured the exclusive rights and privileges in and to the copyright of said commercials and received from the Register of Copyrights certificates of registration, dated and identified as follows:

June 12, 1964,	Class C,	No. 16869, and
June 17, 1964,	Class C,	No. 16870,

attached hereto and made a part hereof.

7. That since the 12th and 17th days of June, 1964, the plaintiff has been and still is the sole proprietor of all rights, title and interest in and to the copyrights in said spoken commercials.

8. That after June 17, 1964, the defendants infringed said copyrights by publishing in magazines and placing upon radio and television stations advertisements about the defendant, Kansas City Stock Yards Company of Maine, a corporation, T/A Golden Ox Restaurant, which were copied largely from plaintiff's copyrighted material, entitled "Spoken Commercials."

9. That the defendants have been notified that the advertising material had been copyrighted and the defendants have continued to infringe the copyrights of plaintiff.

10. That after June 17, 1964, and continuously to the present time, the defendants have been using plaintiff's copyrighted material and have thereby been engaging in unfair trade practices against plaintiff to plaintiff's irreparable damage.

WHEREFORE, plaintiff demands the following:

1. That the defendants, their agents, and servants be enjoined during the pendency of this action and permanently from infringing said copyrights of said plaintiff in any manner.

2. That the defendants be required to pay to plaintiff such damages as plaintiff has sustained in consequence of the infringement by the defendants of said copyrights and said unfair competition and to account for:

(a) all gains, profits and advantages derived by the defendants by said trade practices and unfair competition; and

(b) all gains, profits, and advantages derived by the defendants as to the court shall appear proper within the provisions of the copyright statutes, but not less than Two Hundred Fifty ($250.00) Dollars.

3. That the defendants pay to plaintiff the costs of this action and reasonable attorney's fees to be allowed to the plaintiff by the Court.

4. That judgment be entered against the defendant, Kansas City Stock Yards of Maine in the sum of Nine Hundred Three and 60/100 ($903.60) Dollars plus interest from May 20, 1964.

5. That plaintiff have such other and further relief as is just and proper.

James S. Gardinder
Attorney for Plaintiff

EXHIBIT G

CITY OF)
WASHINGTON) SS:

AFFIDAVIT

JOHN GIBSON SEMMES, being duly sworn, deposes and says as follows:

1. That during the period June 1964 through on or about September 1964 inclusive he represented Miss Candis O. Ray in negotiations arising from the controversy between Candis O. Ray and others identified in the present Civil Action No. 187/65.

2. That in his representation of Miss Ray he served in a legal capacity as an attorney of the law firm Semmes & Semmes, then located at 1000 Connecticut Avenue, N.W., Washington, D.C.

3. That during the course of the negotiations an offer was made by counsel representing the defendants in said Civil Action for settlement, the figure then being set at $500.00 and which said offer was later increased from $500 to $1,000. Under the circumstances, the affiant then representing Candis O. Ray recommended that she reject the initial offer of $500 and accept the later offer of $1,000.

Further affiant sayeth not.

/s/ John Gibson Semmes

[Jurat dated March 18, 1968.]

EXHIBIT H

AGREEMENT OF SETTLEMENT AND MUTUAL RELEASE

THIS AGREEMENT, made this 26th day of August, 1966, by, between and among: (1) CANDIS O. RAY, individually, and trading as and on behalf of CANDIS O. RAY AGENCY (hereinafter collectively called RAY); (2) KANSAS CITY STOCKYARDS COMPANY OF MAINE, a corporation, on its own behalf and trading as and on behalf of GOLDEN OX RESTAURANT (hereinafter collectively called GOLDEN OX); and (3) NATIONAL BROADCASTING COMPANY, INC., a corporation (hereinafter called NBC).

WITNESSETH:

WHEREAS, RAY has filed in the United States District Court for the District of Columbia a suit pending there as Civil Action No. 187-65 against GOLDEN OX, NBC and certain other defendants, for damages and other relief; and

WHEREAS, all defendants have filed answers in said Civil Action No. 187-65 denying the claims of RAY and asserting that RAY is not entitled to damages or other relief; and

WHEREAS, each party denies all claims and allegations made in the complaints, answers or counterclaims filed against such party; and

WHEREAS, all parties hereto are desirous of settling once and for all, all claims that they may have or have had, or may in the future have against one another from all transactions between them to date, in the manner herein set forth and by and through this Agreement;

NOW THEREFORE, the parties, in consideration of the mutual promises and covenants herein contained, certain monies paid to RAY by GOLDEN OX, the dismissal of the litigation as to the parties hereto, as herein agreed, and other valuable consideration, the receipt of all of which consideration is hereby acknowledged, agree as follows:

1. RAY agrees to assign to GOLDEN OX all right, title and interest in Copyright C-16869 and C-16870, and all the material, ideas and language expressly or impliedly contained therein or related thereto, and to execute the separate instrument of assignment attached hereto, which assignment permits the use of certain material by RAY upon the terms and conditions set out therein.

2. GOLDEN OX agrees to pay to RAY and RAY agrees to accept, in full payment and satisfaction of all her claims against all and any of the parties hereto, the sum of Two Thousand Dollars ($2,000.00).

3. All parties hereto authorize and direct their respective counsel to sign and file praecipes in the United States District Court for the District of Columbia, entering the complaint in Civil Action No. 187-65 and all counterclaims therein, as settled, satisfied and dismissed with prejudice as to them.

4. NBC agrees that GOLDEN OX has fully performed its obligation to defend and hold NBC harmless in connection with the claims made by RAY in the said Civil Action No. 187-65.

5. CANDIS O. RAY, both individually and for and on behalf of, and trading as CANDIS O. RAY AGENCY, hereby releases and discharges KANSAS CITY STOCKYARDS COMPANY OF MAINE, a corporation, trading as GOLDEN OX RESTAURANT, NATIONAL BROADCASTING COMPANY, INC., a corporation, their successors and assigns, their past and present officers, directors, stockholders, employees, agents (except remaining defendants to the said Civil Action No. 187-65) attorneys and all other persons acting on their behalf, of and from all manner of action or actions, suits, debts, claims, liabilities, controversies, damages and demands, whether in law or in equity, contract or tort, which CANDIS O. RAY, both individually and for and on behalf of, and trading as CANDIS O. RAY AGENCY, now have, or might have, or ever had, or might have had, or ever can or may in the future have against the said KAN-

SAS CITY STOCKYARDS COMPANY OF MAINE, a corporation, trading as GOLDEN OX RESTAURANT, and NATIONAL BROADCASTING COMPANY, INC., a corporation, their successors and assigns, their past and present officers, directors, stockholders, employees, agents (except the remaining defendants to the said Civil Action No. 187-65) attorneys, and all other persons acting on their behalf, arising out of any act or omission, transaction, matter or thing, down to the date of this Agreement.

6. KANSAS CITY STOCKYARDS COMPANY OF MAINE, a corporation, trading as GOLDEN OX RESTAURANT, and NATIONAL BROADCASTING COMPANY, INC., a corporation, hereby release and discharge CANDIS O. RAY, individually and trading as CANDIS O. RAY AGENCY, of and from all manner of action or actions, suits, debts, claims, liabilities, controversies, damages and demands, whether in law or in equity, contract or tort, which the said KANSAS CITY STOCKYARDS COMPANY OF MAINE, a corporation, trading as GOLDEN OX RESTAURANT, and NATIONAL BROADCASTING COMPANY, INC., a corporation, now have, or might have, or ever had or might have had, or ever can or may in the future have against the said CANDIS O. RAY, both individually and trading as CANDIS O. RAY AGENCY, their successors, heirs, next-of-kin and assigns, arising out of any act or omission, transaction, matter or thing, down to the date of this Agreement.

IN WITNESS WHEREOF, the corporate parties to the aforegoing Agreement have caused these presents to be duly signed by their duly thereunto authorized agents and the said CANDIS O. RAY has thereunto set her hand and seal,

in the City of Washington, District of Columbia, as of the day hereinabove first written.

KANSAS CITY STOCKYARDS COMPANY OF MAINE

By /s/ Jay B. Dillingham
Its duly thereunto authorized agent.

GOLDEN OX RESTAURANT

By /s/ Jay B. Dillingham
Its duly thereunto authorized agent.

NATIONAL BROADCASTING COMPANY, INC.

By /s/ Hans A. Nathan
Its duly thereunto authorized agent.

CANDIS O. RAY AGENCY

By /s/ Candis O. Ray
Its duly authorized agent

/s/ Candis O. Ray
Individually

WITNESS THEIR RESPECTIVE COUNSEL:

/s/ James S. Gardiner, Jr.
Counsel for Candis O. Ray, individually
and Candis O. Ray Agency
* * *

/s/ Hans A. Nathan
Counsel for Kansas City Stockyards Company
of Maine, Golden Ox Restaurant and National
Broadcasting Company, Inc.
* * *

EXHIBIT I

ASSIGNMENT made this 26th day of August 1966 by CANDIS O. RAY of Washington, District of Columbia (Assignor), to KANSAS CITY STOCKYARDS CO. OF MAINE, a corporation trading as GOLDEN OX RESTAURANT (Assignee).

WITNESSETH:

WHEREAS, the Assignor, on June 12, 1964, registered for copyright with the Register of Copyrights in the Library of Congress a document entitlted "Spoken Commercials" Copyright C-16869, a copy of which is attached hereto as Exhibit A, and

WHEREAS, on June 17, 1964, the Assignor registered for copyright with the Register of Copyrights in the Library of Congress a document entitled "Spoken Commercials" Copyright C-16870, a copy of which is attached hereto as Exhibit B, and

NOW, THEREFORE, the parties hereto, in consideration of (1) the mutual covenants herein contained, (2) the settlement of Civil Action No. 187-65, (3) certain monies paid by the Assignee to the Assignor, and (4) for other valuable consideration, receipt of all of which consideration is hereby acknowledged, agree as follows:

1. Assignor hereby assigns to Assignee all her right, title and interest in the material contained in the documents registered as Copyrights No. C-16869 and C-16870 aforesaid and in said copyrights to the Assignee, and by this instrument intends to transfer all her rights of any nature whatever to said copyrights, said material, or any idea, expression, combination of words or other matters contained therein.

2. The Assignee covenants not to sue Assignor for infringement of the copyrights herein assigned if Assignor uses any of the ideas contained in said copyrights in her capacity as the owner or employee of an advertising agency,

provided, however, Assignor shall not use the following combination of words:

"owned and operated by the Kansas City Stockyards known the world over as purveyors of the FINEST quality beef available"

"The Kansas City Stockyards Company presents magnificent meat chosen from the stockyards where the 'Steak is Born'".

"Washington's finest beef specialty house, owned and operated by the world-famous Kansas City Stockyards Company, purveyors of fine beef for over a century . . . . . shipped direct from the Kansas City Stockyards. . . . . and from choice corn fed steers."

"The Kansas City Stockyards, famous the world over for its Cattleland and choice beef."

"owned and operated by the Kansas City Stockyards where the steak is born."

"where 'Beef is King, and the King of Beef is served'."

IN WITNESS WHEREOF the parties have signed and sealed this Assignment.

CANDIS O. RAY
CANDIS O. RAY AGENCY
Assignor

By /s/ Candis O. Ray

THE KANSAS CITY STOCKYARDS CO.
Assignee

By /s/ Jay B. Dillingham

ATTEST:

/s/ T. M. O'Neal
(SEAL)

EXHIBIT J

PRAECIPE

UNITED STATES DISTRICT COURT
For the District of Columbia

[Caption omitted in printing]

The Clerk of said Court will enter upon the docket that the complaint against the Kansas City Stockyards Company of Maine and National Broadcasting Company, defendants and the counterclaim of Kansas City Stockyards Company of Maine, Inc. against the plaintiff are settled and dismissed with prejudice.

/s/ James S. Gardiner
Attorney for Plaintiff

Consented to:
Hans A. Nathan
Attorney for Kansas City Stockyards
Co. of Maine & NBC

EXHIBIT K

UNITED STATES DISTRICT COURT
For the District of Columbia

[Caption omitted in printing]

MOTION TO SET ASIDE PARTIAL SETTLEMENT AND TITLE TRANSFER EFFECTED UNDER DURESS

Comes now the Plaintiff, by and on behalf of herself, states the following:

1. That on January 25, 1965, counsel for Plaintiff filed in the United States District Court For the District of Columbia an Infringement of Copyright, Breach of Contract and Monies Owed suit, Civil Action No. 187-65.

2. That this Court has jurisdiction of this cause and action pursuant to Title 28, #1358, United States Code.

3. That Plaintiff filed suit because of deliberate violations of Infringements of her protected works under the United States Copyright Registration Numbers 16869 and 16870, titled "Spoken Commercials" after defendants had been noticed of copyright ownership of Plaintiff.

4. That Defendants were duly notified of copyright ownership by Plaintiff on date July 10, 1964 by first class mail, which notice was acknowledged as having been received (see deposition testimony). However, Defendants continued willfully and deliberately to infringe said copyrighted material from the first day noticed and on to the time when a partial settlement was offered by the Defendants, releasing two of the four defendants, on date August, 1966.

5. The Defendants' partial settlement offer carried with it a demand for complete title transfer of Plaintiff's copyrighted material, and release of all infringements with the two party defendants to the four party defendant suit for an amount of $2,000.00 ($500.00 of which would be paid to Plaintiff's counsel), although the value of $20,000.00 had been placed on the copyrighted material by the Plaintiff in a formal conference in defense counsel Hans A. Nathan's

Office Prior to the filing of the suit on request of Defense counsel Nathan to place a value on the copyrighted material.

6. That Plaintiff was under heavy sedatives and the care of a doctor at the time of the effected partial settlement (see attached hereto certification from Plaintiff's doctor, Dr. John R. Ewan) and she was frieghtened by her counsel's constant threats that he would withdraw if she would not accept the offer by defense attorney for two of the defendants to suit; such forced release instrument and title transfer of copyrighted material is invalidated because Plaintiff was forced to agreement while under sedatives, and for further reason that the Partial Settlement and Title Transfer Instrument does not have Plaintiff's signature, to Plaintiff's knowledge. Plaintiff does not recall signing a Partial Settlement and Title Transfer Instrument, the same of which two copies were offered by the defense at the pretrial for Plaintiff's signature. Plaintiff declined signing.

7. That Plaintiff has not used any of the $1,500. given to her by counsel and offers to forfeit same, with the condition that her counsel forfeits the $500.00 which amount he kept out of the $2,000. all of which is to be returned to defendants at nullification of the forced Partial Settlement and Title transfer.

8. That the Partial Settlement and Title Transfer has not been acted on by the court, and it is the understanding of Plaintiff that the attorneys involved negotiated the agreement themselves. However, Plaintiff has observed that someone has marked the word "OUT" by the margin of two of the defendants on the court record.

9. Infringements of copyrighted material have continued by the defendants and extend beyond the two year period stated in paragraph 4 of this Motion at which time the forced Partial Settlement and Title Transfer was effected.

CRIMINAL and CIVIL Violations in effect:

U.S. Copyright (Section 506 Criminal Offenses, Title 17, U.S. Code - "(a) CRIMINAL INFRINGEMENT ....

any person who infringes a copyright willfully and for the purposes of commercial advantage. . . . shall be fined not more than $2,500.00 or imprisoned not more than one year, or both, for the first such offense, and fined not more than $10,000.00 or imprisoned not more than one year, or both, for any subsequent offense."

SUMMARY:

1. This court has jurisdiction over this cause and action.
2. Evidence proves infringement violations.
3. The Partial Settlement and Title Transfer with half of the four defendants effected under duress is void and null.
4. Both Civil and Criminal law applies in the Infringement violations.

Respectfully Submitted,

/s/ Candis O. Ray, plaintiff
t/a Candis O. Ray & Assoc.

• • •

LIBRARY
SUPREME COURT, U. S.

FILED
DEC 28 1970
R. ROBERT SEAVER, CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1970

No. 633

CANDIS O. RAY, t/a CANDIS O. RAY AGENCY,
Petitioner,

v.

KANSAS CITY STOCKYARDS COMPANY OF MAINE,
A CORP., t/a GOLDEN OX RESTAURANT, ET AL,

and

RUTH G. GRAZE,
Respondents.

REPLY BRIEF OF PETITIONER FOR WRIT OF CERTIORARI

CANDIS O. RAY
Pro se
2700 Connecticut Avenue, N.W.
Washington, D. C. 20008

IN THE

Supreme Court of the United States

OCTOBER TERM, 1970

No. 633

CANDIS O. RAY, t/a CANDIS O. RAY AGENCY,
Petitioner,

v.

KANSAS CITY STOCKYARDS COMPANY OF MAINE, A CORP., t/a GOLDEN OX RESTAURANT, ET AL,

and

RUTH G. GRAZE,
Respondents.

REPLY BRIEF OF PETITIONER FOR WRIT OF CERTIORARI

Petitioner submits the following in reply to respondent Ruth G. Graze's Brief in Opposition To Petition For Writ of Certiorari filed by counsel Jack H. Olender on December 18, 1970.

JURISDICTION

A. Respondent wrongly states that petitioner "seeks review" against J. Gregory Aires, t/a Aires Publishing Company and the Impact Advertising Agency, the two remaining party defendants represented by counsel Jack H. Olender in Case No. 23,789.

B. Petitioner made clear in her brief that the partial settlement of case No. 23,789 on petition for review herein involves the respondents Kansas City Stockyards Company of Maine and the National Broadcasting Company, clients of attorney Hans A. Nathan, and the connecting and resulting slander suit instituted by attorney Jack H. Olender for Ruth G. Graze, Case No. 20,444, and the fraud adduced.

STATUTES

28 USCA does not lie herein. Evidenced fraud vitiates the time statute.

STATEMENT OF THE CASE

Counsel Hans A. Nathan for respondents Kansas City Stockyards Company of Maine and the National Broadcasting Company has failed to comply with this Court's order to file answer herein by date of December 18, 1970 (APP. A).

Respondent Ruth Graze's counsel Jack H. Olender refers to the Grievance Committee letter addressed to petitioner on June 17 1968 (p. 5). Petitioner directs attention to Appendices B through F appended hereto. After petitioner received the referred to letter from the Grievance Committee dated June 17, 1968 she requested review of the file by the Honorable Edward M. Curran, Chief Judge of the U. S. District Court for the District of Columbia Circuit, whereupon after reviewing same, Judge Curran ordered that a Grievance Committee hearing be held against the named attorneys (APP. B). The hearing is being postponed until after the case is tried.

To petitioner's knowledge the U. S. Attorney General's Office located in the U. S. District Courthouse (D. C.) has not yet made investigations into the matter and taken no action, yet verified proof of perjury by

filed extrinsic affidavits, fraud and collusion were filed with the Attorney General's office in this matter.

Respondent Ruth Graze's attorney Jack Olender states that petitioner's fraud charge is against the "Judges" (pages: Index i, 3 & 7) whereas petitioner has not alleged fraud and collusion against the "Judges" anywhere in her filings. She is appealing the court's rulings for review. That is not a charge of collusion or fraud.

The depositions taken in the Infringement of Copyright suit, Case No. 23,789, reveal there is no substance in fact to the countersuits therein which were filed on the same premise and for the same reason as the connecting slander suit.

Respondent Ruth Graze's counsel Jack Olender states wrongly that petitioner's allegations of the fraud centers around the Charles F. Snyder deposition in case No. 23,789 (APP. F-I) whereas he knows that the conspiracy and the fraud between and among himself and the other attorneys of record also involves his client Ruth Graze's slander suit, case No. 20,444.

Respondent Ruth Graze's counsel evades answering specific charges and to further divert attention employs unnecessary and juvenile innuendoes against petitioner (p. 6) by suggesting an inquiry as to why petitioner has not "filed complaints with the Grievance Committee" against her counsel, the Mark Friedlanders, in the slander suit which Olender instituted for his client Ruth Graze. Petitioner has no reason nor cause to file a complaint against her counsel, the Washington, D. C. law firm Friedlander and Friedlander.

Because of the aforesaid, and the persecution inflicted upon petitioner by the attorneys of record herein, petitioner respectfully requests that the record be examined, and the named attorneys be removed from the Infringement of Copyright suit, No. 23,789 in the U. S. Court of Appeals (D. C.) No. 187-65 in the U. S. District Court

(D. C.) so that she may have a fair and impartial trial, and all costs herein assessed to respondents and the attorneys of record.

Respectfully submitted,

CANDIS O. RAY
Pro se
2700 Connecticut Avenue, N.W.
Washington, D. C. 20008

December 23, 1970

APPENDIX A

OFFICE OF THE CLERK
SUPREME COURT OF THE UNITED STATES
Washington, D. C. 20543

November 18, 1970

Jack H. Olender, Esq.
701 Barr Building
Washington, D. C.

Re: RAY v. KANSAS CITY STOCKYARDS COMPANY OF MAINE, ETC., ET AL.
No. 633, October Term, 1970

Dear Mr. Olender:

Although you waived the right to file a brief in opposition to the petition for a writ of certiorari in the above-entitled case, the Court has instructed this office to direct counsel for the respondents to file such a response.

Forty printed copies of the response, together with proof of service thereof, should reach this office on or before December 18, 1970.

Very truly yours,

E. ROBERT SEAVER, Clerk

By /s/ E. P. Cullinan
E. P. Cullinan
Chief Deputy

jmh

cc: Hans A. Nathan, Esq.
Candis O. Ray, Esq.

APPENDIX B

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
Washington 20001

Edward M. Curran
Chief Judge

August 8, 1968

Miss Candis O. Ray
Candis O. Ray and Associates
1545 Eighteenth Street, N. W.
Washington, D. C. 20036

Dear Miss Ray:

This will acknowledge receipt of your letter of June 19, 1968, in which you complain of an alleged fraud and perjury committed by James S. Gardiner, Hans A. Nathan and Jack H. Olender, all members of the Bar of this court.

I have referred the matter back to the Committee on Admissions and Grievances with the suggestion that they accord you a hearing. You will hear from them in the near future.

Very truly yours,

/s/ Edward M. Curran

EMC:WM

APPENDIX C

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
COMMITTEE ON ADMISSIONS AND GRIEVANCES
Room 6409 United States Court House
Washington, D. C. 20001

Ralph A. Curtin
Secretary and Treasurer

STerling 3-5700
Ext. 513 or 514

August 9, 1968

Miss Candis O. Ray
Candis O. Ray and Associates
1545 18th Street, N.W.
Washington, D. C. 20036

Dear Miss Ray:

In accordance with the suggestion of the Court, the Committee will set for hearing the matter of the complaint filed by you against attorneys James S. Gardener, Hans A. Nathan and Jack H. Olender.

Because, the Committee is advised, Mr. Nathan is presently absent from the city and will not return until after Labor Day, a definite date will be fixed later. You will, of course, be given due notice.

Yours very truly,

/s/ Ralph A. Curtin
Secretary

APPENDIX D

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
COMMITTEE ON ADMISSIONS AND GRIEVANCES
Room 6409 United States Court House
Washington, D. C. 20001

Ralph A. Curtin
Secretary and Treasurer

STerling 3-5700
Ext. 513 or 514

January 9, 1969

Miss Candis O. Ray
The Carnegie House
100 W. 57th Street
New York, N.Y. 10019

Dear Miss Ray:

The Grievance Subcommittee has set for hearing on Tuesday, January 28th next, the matter of the complaints filed by you against attorneys James S. Gardiner, Hans A. Nathan and Jack H. Olender.

The hearing will be held in the office of this Committee, above address, and it is requested that you appear at 10:00 o'clock, A.M. You may bring with you any witnesses and documentary proof you may deem material and may, of course, be represented by counsel, if you so desire.

Of course, notices of the hearing have also been sent to the respondents, and we will cause subpoenas to be issued to A. Philip Towsner, Esq. and to John Gibson Semmes, Esq., as requested. A grievance hearing, however, is not a criminal matter and the Committee is with-

out authority to cause a subpoena to be issued to Mr. Snyder in Texas.

Yours very truly,

/s/ Ralph A. Curtin
Secretary

Certified Mail
Return Receipt Requested

CC: Regular mail

APPENDIX E

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
COMMITTEE ON ADMISSIONS AND GRIEVANCES
Room 6409 United States Court House
Washington, D. C. 20001

Ralph A. Curtin
Secretary and Treasurer

STerling 3-5700
Ext. 513 or 514

January 16, 1969

Miss Candis O. Ray
Public Relations
127 East 59th Street
New York, N.Y. 10022

Re: Candis O. Ray
v.
James S. Gardiner
Hans A. Nathan
Jack H. Olender

Dear Miss Ray:

Receipt is acknowledged of your letters of January 11th and January 14th, concerning the above-captioned matter.

In view of your advice that this matter has been reported to the United States Attorney here, and that investigation of your charges is under way to include others than the attorneys involved, the Committee has determined, as suggested by you, to continue the hearing set for January 28th until some later date.

The respondents and Messrs. Semmes and Towsner have been advised that the hearing has been continued.

Yours very truly,

/s/ Ralph A. Curtin
Secretary

APPENDIX F

LAW OFFICES OF
TRAMMELL, RAND & NATHAN
Suite 308
1730 K Street, N. W.
Washington, D. C. 20006

March 17, 1965

James S. Gardiner, Esq.
National Press Building
Washington, D. C. 20004

Re: Candis O. Ray v. Kansas City Stockyards, et al.

Dear Jim:

I acknowledge receipt of your Notice of Deposition of Mr. Snyder set for March 25, at 4 p.m. I regret to say that I shall be out of the country next week and probably won't return until the first week in April. Under the circumstances, I would greatly appreciate it if you could postpone the deposition of Mr. Snyder until Tuesday, April 6, at 4 p.m., or, if that date is not convenient, to a date subsequent to April 6.

I am notifying all persons concerned, including the reporter, of this request, and hope that you will see your way clear to make the change.

Sincerely yours,

/s/ Hans A. Nathan
Hans A. Nathan

HAN/hgk

APPENDIX G

LAW OFFICES OF
TRAMMELL, RAND & NATHAN
Suite 308
1730 K Street, N. W.
Washington, D. C. 20006

March 18, 1965

James S. Gardiner, Esq.
National Press Building
Washington, D. C. 20004

Re: Candis O. Ray v. Kansas City Stockyards, et al.

Dear Jim:

This will confirm our telephone conversation of today during which you kindly agreed to continue the deposition of Mr. Snyder to Monday, April 5, at 4 p.m.

Sincerely yours,

/s/ Hans A. Nathan k
Hans A. Nathan

HAN/hgk

APPENDIX H

April 5, 1965

Hans A. Nathan, Esquire
1720 K Street, N. W.
Washington, D. C.

Re: Candis O. Ray v.
Kansas City Stock Yards Company of Maine, et al.

Dear Mr. Nathan:

Pursuant to our phone conversation, this date, wherein you requested continuance of the deposition of Charles Snyder, it was agreed that the deposition is rescheduled for April 14th at 4:00 p.m. in my office.

I will forward to you the bill of Friedli, Wolff and Pastore.

Very truly yours,

JAMES S. GARDINER

JSG:ssl

cc: Jack H. Olender, Esquire
701 Barr Building
Washington, D. C.

Friedli, Wolff, and Pastore
805 G Street, N. W.
Washington, D. C.

APPENDIX I

April 12, 1965

Jack H. Olender, Esquire
701 Barr Building
Washington, D. C.

Re: Candis O. Ray vs. Kansas City
Stock Yards Company of Maine.

Dear Mr. Olender:

This is to acknowledge receipt of your letter dated April 9th concerning a continuance of the deposition scheduled for April 14th at 4:00 p.m. I have consulted my client, who advises me that her schedule will not permit a continuance of the deposition. Also, my schedule conflicts with yours.

I am sorry that we can not accommodate you on this matter, but if I have had known of the situation on April 5th, I could have made other arrangements.

Very truly yours,

/s/
JAMES S. GARDINER

JSG:ssl

cc: Hans A. Nathan, Esquire
1730 K Street, N. W.
Washington, D. C.

Miss Candis O. Ray
1500 Massachusetts Avenue, N. W.
Washington, D. C.

LIBRARY
SUPREME COURT

Supreme Court, U.S.
FILED
JAN 27 1971
E. ROBERT SEAVER, CLERK

IN THE

Supreme Court of the United States

October Term, 1970

No. 633

CANDIS O. RAY,
t/a CANDIS O. RAY AGENCY,

Petitioner,

v.

KANSAS CITY STOCKYARDS COMPANY OF MAINE,
A CORP., t/a GOLDEN OX RESTAURANT, *ET AL.*,

and

RUTH G. GRAZE,

Respondents.

PETITION FOR REHEARING

CANDIS O. RAY, *Pro se*
2700 Connecticut Avenue, N. W.
Washington, D. C. 20008

THE CASILLAS PRESS, INC.—1717 K Street, N. W.—Washington, D. C.—223-1220

IN THE

Supreme Court of the United States

October Term, 1970

No. 633

CANDIS O. RAY,
t/a CANDIS O. RAY AGENCY,

Petitioner,

v.

KANSAS CITY STOCKYARDS COMPANY OF MAINE,
A CORP., t/a GOLDEN OX RESTAURANT, *ET AL.*,

and

RUTH G. GRAZE,

Respondents.

PETITION FOR REHEARING

Petitioner seeks a rehearing and review of the issues because of the misleading statements of material facts submitted by counsels for respondents herein.

The Court directed both counsels, Hans A. Nathan and Jack H. Olender, representing the two respondents herein, to file an answer to within petition for writ of

certiorari "on or before December 18, 1970." Jack Olender filed answer on December 18, 1970. Petitioner filed a reply thereto on December 23, 1970, after having received no answer by that date from counsel for the remaining respondents Kansas City Stockyards Company of Maine and the National Broadcasting Company, assuming that they would not be filing an answer after due date.

Petitioner has since received above-referred to respondents' answer to her petition, which contains gross misstatements of facts and omissions of truth necessitating a reply thereto.

The clear misrepresentations of facts by the respondents in quoting selected portions and appending partial pleadings, deleting that which is unfavorable to them, and making complete misstatements of facts is unfair and damaging to petitioner, especially as evidenced that this Court had requested the respondents to file an answer.

The respondents deliberately influenced the Court by the following misinformation, and misleading facts:

1. ". . . (Who at all times was represented by experienced and reputable counsel)" (Page 2, Kansas City Stockyards Company of Maine, *et al.*, answer brief)

Petitioner resents strongly the libelous accusation by respondents' counsel that she has been represented by "a battery of experienced attorneys" in this case (page 6) and that she has had "a succession of attorneys," and that she has "quarreled with them," and the "continuing discharge of her attorneys" (page 8). These statements are utterly untrue, and counsel for respondents knew that these statements were untrue when he made them to this Court to damage and influence the Court against petitioner.

Petitioner did contact those Washington, D. C. attorneys named by the respondents (page 8) and about *twenty* more in the District of Columbia in seeking representation, with *the same* answer from all of the attorneys after they reviewed the files at the Courthouse – all of the attorneys stated the same reason why they wouldn't take the case as being "the mess the lawyers have put it in." Some of the answers are in letter form and are from some of the most prominent Washington attorneys. Therefore, double persecution was inflicted upon petitioner, depriving her of representation in the courts and forcing petitioner to represent herself the best way she could. The court records reveal that petitioner *did not* fire her attorney, James S. Gardiner, who prepared and filed her Infringement of Copyright suit, nor has she *ever* fired any attorney who has ever represented her, and petitioner resents that accusation by the respondents, as it is grossly damaging to petitioner. The records reveal that Mr. Gardiner filed a motion to withdraw as counsel on December 14, 1967, AFTER he was reported to the Grievance Committee on December 7, 1967, the first report by petitioner to Grievance, with later report filed December 23, 1967, which reports by petitioner were made on the advice of a Washington, D. C. attorney who had reviewed the files in these cases filed in the United States District Court (D. C.), and who discovered the discrepancies therein. (The ordered hearing is pending.)

Petitioner has had *no lawyer* representing her since the withdrawal of Mr. Gardiner, although she has desperately sought representation, and has had to suffer the persecution of this knowledge by the respondents and their counsel who deliberatley contrived this situation.

Petitioner strongly resents the phrases used by the respondents which mislead the Court into thinking that she was represented "at all times" by "experienced

counsel." Petitioner could not get an attorney to take the case and she solicited help from the Lawyer Referral Service of the Bar Association of the District of Columbia on September 25, 1969 (see Miss Dolan), with referred-to Washington lawyers refusing to take the case for reasons aforementioned. To further humiliate petitioner, respondents employed such phrases as (she) "changed her mind" (page 7) and "after negotiations with the advice of her experienced and reputable attorneys, was barred by laches" (Page 7), wherein the respondents refer to the ruling of the United States District Court (D. C.), issued October 17, 1969 (APP. F, Pet. Brief), at which time petitioner was not represented by counsel. Petitioner had no other alternative than to represent herself, not only in the preparation of the motions (evidenced by the court records) but at the trial hearing, and she has had extreme difficulty as a lay person of the law in getting cognizance from the courts below because of that fact.

2. Respondents complain of petitioner's exercising her rights in reinstating the case. The records reveal that the case was dismissed by the United States District Court (D. C.) *without notice* of trial being sent to petitioner by the court – with *none* of petitioner's three addresses, including her office addresses filed with the court, receiving a notice of the trial hearing! The court thus displaying arbitrary and capricious action, taking undue advantage of petitioner, knowing that she was representing herself, and was forced to do so, *as the same had been stated in petitioner's filings with the court.* At great personal oppressions and humiliations to petitioner, petitioner had to prepare the necessary filings and represent herself in court to reinstate the case *because she was not served by the court,* which she proved at the trial hearing, evidenced by reinstatement of the case; that she was not abandoning her rights for "want of prosecution," as stated by the court.

3. Respondents state that petitioner's complaint herein of fraud and conspiracy is based solely on the Snyder deposition incident in C.A. 187-65 and the facts

surrounding it, deliberately excluding their manufactured slander suit, C.A. 737-65, based upon an alleged telephone conversation which respondents invented and, without an iota of evidence to support the allegation, respondent counsel Jack H. Olender filed the suit *one month* after his client, Ruth G. Graze, owner of Impact Advertising Agency, was served with the Infringement of Copyright suit;[1] thereafter, the unfounded and maliciously concocted slander suit was used in settlement offers by respondent counsel in the Infringement of Copyright suit in the settlement of that suit, and to further persecute petitioner as a retaliation for instituting the Infringement of Copyright suit. (See APP. A, identified as the slander suit complaint filed by respondent counsel Jack H. Olender)[2] In connection thereto, petitioner submits the FIRST RELEASE prepared and proffered by respondent counsel Hans A. Nathan for Kansas City Stockyards Company of Maine and the National Broadcasting Company in which he included the Ruth G. Graze slander suit as a settlement factor, and for further embarrassment to petitioner. (See APP B, pages B-2 & B-4, which is identified as EXHIBIT 4-A, presented in

---

[1] Candis O. Ray came to Washington, D. C. in 1958 and associated with the Alvin Epstein Advertising Agency where she met Mrs. Graze who had been employed there for about twelve years as an Account Executive. Later, about 1960, they both opened up separate advertising agencies in Washington, D. C. After a business party denoting success (by Ray) in the early part of 1964, Graze moved in and stole Ray's account, the Golden Ox Restaurant (Kansas City Stockyards Company of Maine), during contract commitments. The herein suits ensued.

[2] Jack Olender, out of malice and reprisal against petitioner for her filing of the Infringement suit against his client, charged random phrases such as "others presently unknown to plaintiff" and added accusations in his complaint which were denied by his sole witness, Legg. (See Pet. Brief, page 15)

court below and attached to APP. C) Petitioner particularly resents the defamatory insinuation by Mr. Nathan that "4(c) RAY and GRAZE agree . . . to refrain from making derogatory remarks about one another." Petitioner's position in the community and her character is above reproach in this regard, and she need not be told not to make such a remark, nor would she sign such an intimidating, defamatory and suggestive pact. *The offer of Mr. Nathan to include the slander suit in the release of his clients the Kansas City Stockyards Company of Maine and the National Broadcasting Company reveals the extent to which the slander suit influenced him and his clients, and thus his settlement conditions.* The court records and the pleadings reveal that the slander suit, C.A. 737-65, U.S. Dist. Ct., D. C., was a made-up piece of business based upon an alleged one-sided telephone conversation WHICH NEVER HAPPENED. (See Pet. Brief)

4. Respondents Kansas City Stockyards Company of Maine, *et al.*, state that the two herein cases were never combined (page 6) or "consolidated." Counsel Hans A. Nathan, for the named respondents, combined the cases by the following actions:

(1) Release proffered by Nathan (APP. B).

(2) Nathan's voluntary appearance at deposition taking of witness Legg in C.A. 737-65, the slander suit in which his clients were not involved. (See Pet. Brief, page 9, para. 2)

(3) The Praecipes executed in settlement of *both cases* on date *September 16, 1965;* offered to petitioner, who accepted the offer to settle both of the cases on advice of counsel Gardiner, and which offer *as soon as accepted by petitioner* was withdrawn by respondents' counsel Hans A. Nathan. (See APP. D, D(a), D(b), D(c), D(d), D(e), D(f), attached)

5. Respondents Kansas City Stockyards Company of Maine, *et al.*, appended to their brief the affidavit of its attorney Hans A. Nathan (pages 9a-12a) in response to petitioner's complaint filed with the Grievance Committee December 23, 1967 (pages 3a-8a) but failed to append petitioner's reply to same filed with Grievance on March 19, 1968, which reveals misstatements of facts in Mr. Nathan's sworn statement.

The following exact quotes from petitioner's above-mentioned reply filed with Grievance deal with heretofore undisclosed issues relating to petitioner's alleged deceit and fraud practiced by the attorneys of record to deny and deprive her due process and fair representation:

> "It is noted that Mr. Hans A. Nathan swears falsely in his affidavit dated February 26, 1968 and filed with the committee (page 3, para. 2) wherein he states I had retained a third attorney in the Infringement of Copyright suit pertaining to his client and settlement thereof. The exact quote as stated by Mr. Nathan . . . "After a series of negotiations and communications with a third attorney for Miss Ray, settlement was finally reached. . . ." I have never retained a third attorney to represent me in the Infringement suit and it is requested that Mr. Nathan supply us with said communications and negotiations in regard thereto. Mr. James S. Gardiner who prepared the suit the way he wanted it and filed it in the United States District Court is the only attorney representing me in the Infringement suit, other than Mr. John Gibson Semmes, a Washington patent and trade mark attorney, who does not engage in courtroom trial practice and who merely represented me in the very

beginning of the deliberate Infringement violation by Mr. Nathan's client by setting up an appointment for a conference to be held in Mr. Nathan's office for possible negotiations of settlement purposes, at which time I was asked to place a value on the copyright material by Mr. Nathan, at which time the value was placed at $20,000, as the many pages of copy which I had written constituting a small book represented my life's work, training and experience.

It is believed by this affiant that Mr. Nathan's reference to a third attorney representing me in the matter of the Infringement suit and the settlement with his client was for the purpose to have it appear to reflect against me as having a number of attorneys, and it is further believed that Mr. Nathan's reference to a third attorney representing me in this matter could have been Mr. A. Philip Towsner, a Washington attorney whose practice does not involve such matters as he specializes entirely in tax matters and is merely my advisor in this area, and has been for a number of years. I am advised, and do so believe that Mr. Towsner has never contacted Mr. Nathan in any way whatsoever concerning this matter, or any other matter, and further that Mr. Towsner has never met Mr. Nathan. (See attached affidavit of Mr. A. Philip Towsner)

I have been informed by both attorneys Messrs. John Gibson Semmes and James S. Gardiner, my only representing counsel on the case and matter of the Infringement

> suit, and do so believe, that Mr. Nathan asked the suggestive question of them: If they were not going to withdraw as my counsel if I did not accept his (Nathan's) terms of settlement offer.
>
> After a threat was received by Mr. Semmes from Mr. Nathan advising Mr. Semmes to relay to me that if I filed suit against his client they would embarrass me and further that there was the possibility of indictment charges against me, Mr. Semmes advised me that he didn't want to use his office along these tactics and strongly advised that I take the last offer of $1,000.00 from Mr. Nathan and to use his words "and run." (See attached hereto correspondences between counsel Mr. Gibson Semmes and myself re same."

It is amazing that Mr. Nathan should request of the court to be paid for services which are in the line of his legal duties in defending himself and his clients, as the records reveal, and that the court should grant him the same, as noted below:

> "It is noted that Mr. Nathan states in his affidavit dated February 26, 1968 and filed with this committee that (page 2, ending of last para.) . . . "I expected the deposition to be rescheduled in accordance with the Order so permitting upon payment of a $25.00 counsel fee (to him). . . ." It is noted that my counsel, Gardiner, filed an *Opposition to Calendar Case for Trial on date May 26, 1965* in which he asked for and was granted a limited length of time in which to make additional discoveries, and for the purpose of rescheduling the Snyder deposition, which time to the best of my recollection was approximately thirty days.

I have submitted letters to the committee in my complaint dated December 23, 1967 which I wrote to counsel Gardiner on dates May 7, 1965 and August 5, 1965 in which I literally beg him to continue Snyder's deposition, and agreeing to any terms he wanted. *But, at this point, Mr. Gardiner informed me that he had already told Mr. Nathan that he was withdrawing from the case, in answer to Mr. Nathan's direct question if he was not going to withdraw if I did not accept the $2,000.00 offer of settlement; and Mr. Gardiner stated to me that since he had already informed Nathan of his withdrawal that he couldn't continue the discoveries. His exact words were in this regard . . . "Not now. I've already told them I was withdrawing." Mr. Gardiner further stated that "They are unreasonable" . . . and "I can't get them to keep their commitments with me" . . . and "I want out. There's too much pressure involved. . . ."*

"Affiant recalls that at this particular point of harassment and intimidation to her by all the attorneys, including her own counsel Gardiner who was trying to throw her over and "get rid" of his responsibility to his client and the cases, *having already advised opposition attorneys Nathan and Olender that he was withdrawing at the suggestive-question asked my counsel Gardiner by Nathan, as reported to this affiant by Mr. Gardiner, and as heretofore in this Reply explained,* that she was seized with pains and suffered attacks from a disorder caused and brought on by the mental anguish and tension brought on by the harassment of her own attorney wanting to withdraw without reason from her, and this

affiant knowing that the withdrawal suggestion had been made by Mr. Nathan, as Mr. Gardiner explained to her, and further she knew that the same tactics had been used by Nathan in trying to get her former counsel Mr. Semmes to refuse to continue to represent her.

Affiant was under medication and the medical care of Dr. John Radcliff Ewan, Washington, D. C., for the grave intestinal disorder, a permanent impairment, brought about by the deliberate and fostered harassment and intimidation by these attorneys upon her, forcing her to agree to unreasonable terms and conditions, with some offers including threats. (See Mr. John Gibson Semmes' affidavit attached hereto."

"In addition to the foregoing, cognizance must be given to the highly improper and unethical manner in which all attorneys conducted themselves relative to the settlements offered and withdrawn after affiant had accepted same, with the attorneys each time coming back on affiant with absurd and improper demands in the settlement of both suits, such unethical and illegal tactics harassing affiant into a forced acceptance of partial settlement."

ARGUMENT

I. **Clear abuse of discretion is evidenced by actions and rulings of the courts below:**

Rule 60(b), F.R.C.P., does not lie herein, nor does laches in the light of the deceit and fraud adduced in the court below consummating a total of 30 Exhibits, which the court chose to ignore.

Unquestioned evidence of fraud and conspiracy is revealed in the thirty EXHIBITS attached to petitioner's "Answer to Opposition of the Defendant Kansas City Stockyards Company of Maine and Defendant National Broadcasting Company, Inc., to Motion of Plaintiff Candis O. Ray, to Set Aside Partial Settlement and Title Transfer" (APP. C).

Clear deception, committed perjury with intent to deceive and cheat petitioner of her rights are evidenced in the submitted thirty EXHIBITS introduced into court at the trial hearing. The conspiracy and malicious harassment inflicted upon petitioner by the attorneys is further evidenced by the inclusion of the slander suit, C.A. 737-65, in the mutual settlement release proffered by Hans A. Nathan for respondents Kansas City Stockyards Company of Maine and the National Broadcasting Company in the settlement of the Infringement suit, C.A. 187-65. (See APP. B, introduced in court below as EXHIBIT 4-A)

Respondents wrongly state that both of the courts below reviewed the evidence. The United States Court of Appeals (D. C.) dismissed the case without hearing on filed Motion to Dismiss by respondents.

Respondents wrongly state that petitioner waited more than three years to disturb the Partial Settlement – from

August 26, 1966 to petitioner's filing the Motion to Set Aside the Partial Settlement on their referred-to date of September 16, 1969 – whereas the respondents' attorneys know that petitioner was represented by James S. Gardiner during much of that time, who had continuously promised petitioner that he would straighten the matter out, but later refused, leaving petitioner destitute and abandoned.

Contrary to respondents' charge, petitioner filed the *first* Motion to Set Aside the Partial Settlement in the United States District Court (D. C.) on *January 31, 1969*, the records will disclose, with service, as noted, to the representing counsel for the defendants. The same court (Judge Sirica) ruling against petitioner herein (See APP. F, Pet. Brief), returned her motion with a note of rejection! Yet, the records reveal that the *same identical Motion to Set Aside the Partial Settlement*, verbatim, was filed again by petitioner on date referred to above by respondents (September 16, 1969), which was accepted by the *same* court, rendering a prejudiced ruling against petitioner (herein appeal), and who unfairly demanded of petitioner at the trial hearing – (petitioner was appearing in proper person against three learned attorneys *who reminded the court that they were officers of the Bar "of this court"*) – that she had a *few hours "until four o'clock"* to supply a complete copy of her pleadings (APP. C), with the attached 30 EXHIBITS to an attorney whose clients were not involved in the herein partial settlement – Jack H. Olender. Petitioner Ray requested of the court a few more hours, until the next morning, because she had to get back to work. The court refused. Petitioner complied with the demand.

II. Rule 19 of this Court requires the exercise of this Court's supervisory powers.

The jurisdiction of the writ of certiorari on review herein rests on judicial discretion conclusively, pursuant to Rule 19(1), (b) ". . .; or has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such a departure by a lower court, as to call for an exercise of this court's power of supervision."

The necessity and importance of plenary consideration by this Court is evidenced herein. (Pet. Brief, page 7)

Petitioner does not feel that it is necessary to quote authorities to the learned Justices of the United States Supreme Court, whose legal knowledge is thorough. The evidence herein reveal the improprieties.

CONCLUSION

Here a citizen is deprived of representation in the courts because of the willful and maliciously contrived conglomeration of deception and conspiracy by the attorneys of record, as the court records reveal, and the pre-meditated scheme of retaliation by the respondent attorneys in using an evilly-concocted slander suit, based upon a manufactured telephone conversation (which never transpired) to damage petitioner in the settlement of the Infringement of Copyright suit, and to defame petitioner. None of the thirty or more Washington attorneys whose services petitioner sought would "get involved." They suggested to petitioner "Have you read the courthouse files?" And petitioner was forced into a position of representing herself without legal knowledge.

Petitioner is seeking justice and an impartial appraisal of what has happened, and doing the best she can to

follow the rules and procedures of the Court without the legal knowledge of the three attorneys who have ganged up on her in the protection of their actions, and who are now ironically stating to the Court that petitioner's charges are libelous and unfounded. The court records and evidence adduced supports petitioner's charges.

The respondents tried to smut petitioner's Infringement of Copyright suit with a maliciously manufactured telephone conversation of an extreme defamation of character upon which they based a slander suit cause, C.A. 737-65 (U.S. Dist. Ct., D. C.), *which alleged telephone conversation never transpired*, the contrived conspiracy manufactured to damage petitioner's chances for fair recovery of the Infringement suit, and to defame petitioner.

There would be no protection at all of the rights of any individual in this country if he must live in fear that a hearsay testimony of an alleged one-sided telephone conversation, WHICH NEVER TRANSPIRED, could prevail in an American court of law, to the damage and defamation of a citizen's character. Why, everyone in this country would be scared to death, and their freedom in jeopardy, to know that anyone can concoct a telephone conversation – and prevail in the American courts!

In the interest of the American people, and the affirmance of their constitutional rights as established, petitioner beseeches this Court with the plea that the ill-fated, unfounded slander suit, C.A. 737-65, U.S. Dist. Ct., D. C., and No. 20,444, U.S. Ct. of App., D. C. – based upon a manufactured telephone conversation, with no corroborative evidence except hearsay, be expunged from the court records, for the reasons of the same.

It's damaging enough for a libelous suit to be instituted against one – with no proof of the charge except manufactured hearsay evidence (see Pet. Brief, and the court pleadings), but to have it used against one with malicious intent, and for purposes of forcing settlement of the Infringement of Copyright suit is unpardonable, allowing for no justification.

Petitioner operates a public relations firm in Washington, D. C. and is reputed to be a person of prominance and influencial standing in the community, whose integrity is held in esteem among highest-ranking government officials in America from the White House to the State Department, and influencing Ambassadors of Embassies of foreign governments to this country (evidenced by attached APP. E & F), and to have the erroneous ruling of the herein slander suit to remain on the court records not only reflects against the community, but the country as a whole; thereby, with the broad powers vested in this Court with authority to so act, petitioner respectfully requests that the ill-fated and erroneous ruling of the slander suit be expunged from the court records and nullified for reasons aforementioned.

Respectfully submitted,

CANDIS O. RAY, *Pro se*

2700 Connecticut Avenue. N. W.
Washington, D.C. 20008

CERTIFICATE

I hereby certify under penalty of perjury that the foregoing Petition for Rehearing is presented in good faith and not for delay and is restricted to grounds specified in Rule 58 of the Rules of this Court.

Signed in Washington, D. C., January 27, 1971.

CANDIS O. RAY

APPENDIX A

Case No. 20,444 (U.S. Ct. App., D. C.)

[Filed March 29, 1965]

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
Civil Division

RUTH G. GRAZE 501 – 13th Street, N. W. Washington, D. C., *Plaintiff,* v. CANDIS O. RAY 1500 Massachusetts Avenue, N. W. Washington, D. C., *Defendant.*	)	**Civil Action No. 737-'65**

COMPLAINT
(for Libel and Slander)

1. The amount in controversy is in excess of $10,000.00.

2. At all times herein mentioned plaintiff was and still is the president of an advertising agency in the District of Columbia known as Impact Advertising, Inc., and defendant was and still is operating an advertising agency in the District of Columbia known as Candis O. Ray Agency.

3. On or about June, 1964, and subsequent thereto, defendant maliciously stated to one William Legg, associated with Paragon Productions in the District of Columbia and others presently unknown to plaintiff, that plaintiff had obtained the advertising account of the Golden

Ox Restaurant in the District of Columbia by sleeping with and committing adultery with the manager of the said Golden Ox Restaurant in the District of Columbia and that plaintiff obtained her business by indulging in adulterous relations with clients and potential clients.

4. The matter so published was untrue, false, and defamatory and the defendant, at the time of publication, well knew that the said matter was untrue, but in publishing said defamatory matter, the defendant acted with such wanton and willful disregard for the truth and rights of the plaintiff as to constitute malice and intent to injure plaintiff in her good name, fame, and reputation.

5. The said defamatory matter brought plaintiff into disrepute, deprived her of her good name, reputation and social standing, caused her to suffer great pain and mental suffering and humiliation and impaired her earning capacity, all to the damage of the plaintiff.

6. The matter so published was slanderous *per se.*

WHEREFORE, plaintiff demands judgment against defendant Candis O. Ray in the amount of $250,000.00, as compensatory damages and $250,000.00 as punitive damages, besides costs and interest.

/s/ Jack H. Olender
Attorney for Plaintiff

APPENDIX B

EXHIBIT 4-A

AGREEMENT OF SETTLEMENT AND MUTUAL RELEASE

THIS AGREEMENT, made this __ day of September, 1965, by, between and among: (1) CANDIS O. RAY, individually, and trading as and on behalf of CANDIS O. RAY AGENCY (hereinafter collectively called RAY); (2) KANSAS CITY STOCKYARDS COMPANY OF MAINE, a corporation, on its own behalf and trading as and on behalf of GOLDEN OX RESTAURANT (hereinafter collectively called GOLDEN OX); (3) IMPACT ADVERTISING, INC., a corporation (hereinafter called IMPACT); (4) RUTH G. GRAZE, individually (hereinafter called GRAZE); (5) NATIONAL BROADCASTING COMPANY, INC., a corporation (hereinafter called NBC); and (6) GREGORY J. AIRES, individually, and trading as and on behalf of AIRES PUBLISHING COMPANY (hereinafter collectively called AIRES);

WITNESSETH:

WHEREAS, RAY formerly was employed by GOLDEN OX in connection with the placement of certain advertising; and

WHEREAS, such employment was terminated by GOLDEN OX; and

WHEREAS, RAY on June 12, 1964, registered for copyright with the Register of Copyrights in the Library of Congress a document entitled, "Spoken Commercials", Copyright C-16869; and

WHEREAS, RAY on June 17, 1964, registered for copyright with the Register of Copyrights in the Library

copyright with the Register of Copyrights in the Library of Congress a document entitled, "Spoken Commercials", Copyright C-16870; and

WHEREAS, RAY claims that the material registered under said copyrights was created, written and owned by RAY; and

WHEREAS, GOLDEN OX denies such claims and, in turn, claims that the material covered by said copyrights was owned by GOLDEN OX; and

WHEREAS, RAY has made certain claims against GOLDEN OX for infringement of copyright, compensation, and for services rendered; and

WHEREAS, GOLDEN OX denies that it is indebted to RAY; and

WHEREAS, RAY has filed in the United States District Court for the District of Columbia a suit pending there as Civil Action No. 187-65 against GOLDEN OX, IMPACT, NBC and AIRES for damages and other relief; and

WHEREAS, GOLDEN OX, IMPACT, NBC and AIRES have filed answers in said Civil Action No. 187-65 denying the claims of RAY and asserting that RAY is not entitled to damages or other relief; and

WHEREAS, IMPACT and AIRES have filed counterclaims in Civil Action No. 187-65 against RAY, based on claims that RAY interfered with IMPACT'S and AIRES' business and published untrue, false and defamatory statements, and for other causes; and

WHEREAS, RUTH G. GRAZE has filed an action against RAY pending as Civil Action No. 737-65 in the United States District Court for the District of Columbia, claiming damages because of slanderous statements claimed to have been made by RAY and for other causes; and

WHEREAS, each party denies all claims and allegations made in the complaints or counterclaims filed against such party; and

WHEREAS, all parties are desirous of settling, once and for all, all claims that they may have or have had, or may in the future have against one another from all transactions between them to date, in the manner herein set forth and by and through this Agreement;

NOW, THEREFORE, the parties, in consideration of the mutual promises and covenants herein contained, certain monies paid to RAY by GOLDEN OX, the dismissal of the litigation as herein agreed, and other valuable consideration, the receipt of all of which consideration is hereby acknowledged, agree as follows:

1. RAY agrees to (i) assign to GOLDEN OX all right, title and interest in property rights in Copyright C-16869 and C-16870, and all the material, ideas and language contained therein, and to any and all other material used by her or claimed to have been used by her in connection with advertising, or otherwise claimed to have been used by her for and on behalf of GOLDEN OX Restaurant; and to (ii) execute a separate instrument or assignment substantially in the form as the one attached hereto.

2. GOLDEN OX agrees to pay to RAY and RAY agrees to accept, in full payment and satisfaction of all her claims against all and any of the parties hereto, the sum of Two Thousand Dollars ($2,000.00).

3. All parties hereto authorize and direct their respective Counsel to sign and file praecipes in the United States District Court for the District of Columbia, entering the complaint in Civil Action No. 187-65 and all counterclaims therein, as settled, satisfied and dismissed with prejudice.

4(a). RAY denies having made the statements alleged to have been made by her in Civil Action No. 737-65, and acknowledges *that, in any event,* there is *no basis of fact* for said alleged statements.

(b). RAY and GRAZE authorize and direct their respective attorneys to sign and file a praecipe in the United States District Court for the District of Columbia, entering the complaint in Civil Action No. 737-65 as dismissed with prejudice.

(c). RAY and GRAZE agree not to discuss the subject matter covered by this Agreement with members of the public or of the advertising, radio, television, publishing or restaurant industries, and to refrain from making derogatory remarks about one another.

5. NBC agrees and *GOLDEN OX has fully performed its obligation to defend and hold NBC harmless in connection with the* claims made by RAY in the said Civil Action No. 187-65.

6. CANDIS O. RAY, both individually and for and on behalf of, and trading as CANDIS O. RAY AGENCY, hereby releases and discharges RUTH G. GRAZE, individually, and GREGORY J. AIRES, individually, their successors, heirs, next-of-kin and assigns; and KANSAS CITY STOCKYARDS COMPANY OF MAINE, a corporation, trading as GOLDEN OX RESTAURANT, IMPACT ADVERTISING, INC., a corporation, NATIONAL BROADCASTING COMPANY, INC., a corporation, and AIRES PUBLISHING COMPANY, their successors and assigns, their past and present officers, directors, stockholders, employees, agents, attorneys and all other persons acting on their behalf, of and from all manner of action or actions, suits, debts, claims, liabilities, controversies, damages and demands, whether in law or in equity, contract or tort, which CANDIS O. RAY, both individually and for and on behalf of, and trading as CANDIS O. RAY

AGENCY, now have, or might have, or ever had or might have had, or ever can or may in the future have against the said RUTH G. GRAZE, individually, and GREGORY J. AIRES, individually, their successors, heirs, next-of-kin and assigns, and against KANSAS CITY STOCKYARDS COMPANY OF MAINE, a corporation, trading as GOLDEN OX RESTAURANT, IMPACT ADVERTISING, INC., a corporation, NATIONAL BROADCASTING COMPANY, INC., a corporation, and AIRES PUBLISHING COMPANY, their successors and assigns, their past and present officers, directors, stockholders, employees, agents, attorneys and all other persons acting on their behalf, arising out of any act or omission, transaction, matter or thing, down to the date of this Agreement.

7. RUTH G. GRAZE, individually, and GREGORY J. AIRES, individually, their successors, heirs, next-of-kin and assigns, and KANSAS CITY STOCKYARDS COMPANY OF MAINE, a corporation, trading as GOLDEN OX RESTAURANT, IMPACT ADVERTISING, INC., a corporation, NATIONAL BROADCASTING COMPANY, INC., a corporation, and AIRES PUBLISHING COMPANY, hereby release and discharge CANDIS O. RAY, individually, and trading as CANDIS O. RAY AGENCY, of and from all manner of action or actions, suits, debts, claims, liabilities, controversies, damages and demands, whether in law or in equity, contract or tort, which the said RUTH G. GRAZE, individually, and GREGORY J. AIRES, individually, their successors, heirs, next-of-kin and assigns, and KANSAS CITY STOCKYARDS COMPANY OF MAINE, a corporation, trading as GOLDEN OX RESTAURANT, IMPACT ADVERTISING, INC., a corporation, NATIONAL BROADCASTING COMPANY, INC., a corporation, and AIRES PUBLISHING COMPANY, now have, or might have, or ever had or might have had, or ever can or may in the future have against the said CANDIS O. RAY, both individually and trading as CANDIS O. RAY AGENCY, their successors, heirs, next-of-kin and

assigns, arising out of any act or omission, transaction, matter or thing, down to the date of this Agreement.

IN WITNESS WHEREOF, the corporate parties to the aforegoing Agreement have caused these presents to be duly signed by their duly thereunto authorized agents, as of the day and year first above written, and the said CANDIS O. RAY, RUTH G. GRAZE and GREGORY J. AIRES, have hereunto respectively set their hands and seals in the City of Washington, District of Columbia, as of the day hereinabove first written.

KANSAS CITY STOCKYARDS COMPANY OF MAINE

by _____

Its duly thereunto authorized agent.

GOLDEN OX RESTAURANT

by _____

Its duly thereunto authorized agent.

IMPACT ADVERTISING, INC.

by _____

Its duly thereunto authorized agent.

NATIONAL BROADCASTING COMPANY, INC.

by _____

Its duly thereunto authorized agent.

_____

APPENDIX C

ATTACHMENT NO. IV

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
Civil Division

CANDIS O. RAY, t/a CANDIS O. RAY AGENCY, *Plaintiff,* v.	)	
KANSAS CITY STOCKYARDS COMPANY OF MAINE, A CORPORATION, t/a GOLDEN OX RESTAURANT	)	
NATIONAL BROADCASTING COMPANY, INC.	)	Civil Action No. 187-'65
IMPACT ADVERTISING AGENCY, INC.	)	
GREGORY J. AIRES, t/a AIRES PUBLISHING COMPANY, *Defendants.*	)	

ANSWER TO OPPOSITION OF THE DEFENDANT KANSAS CITY STOCKYARDS COMPANY OF MAINE AND DEFENDANT NATIONAL BROADCASTING COMPANY, INC. TO MOTION OF PLAINTIFF CANDIS O. RAY, TO SET ASIDE PARTIAL SETTLEMENT AND TITLE TRANSFER

Comes now the Plaintiff CANDIS O. RAY for and on behalf of herself respectfully submits to the court in answer

to Defendants' Opposition to Motion, and as reasons therefor states the following:

I. PARTIAL SETTLEMENT AND TITLE TRANSFER IS VOID AND NULL FOR FOLLOWING REASONS:

(a) Partial Settlement and Title Transfer effected under duress. (See attached Exhibits.)

(b) Plaintiff was under medical care and prescribed sedatives, with full knowledge of counsel, at time of executed Partial Settlement.

1. Defendants deny "fraud" (Page 1, para. 2) in the execution of said Partial Settlement, although "fraud" was not charged by Plaintiff in Motion. Thereto, however, Plaintiff submits the attached EXHIBITS No. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 & 22 which are identified as follows: And in regard thereto Defendant charges (Page 2, para. 1) that there were no communications to the Plaintiff by the Defendants (See correspondences attached herewith marked EXHIBITS No. 9 and 10.)

2. Defendants' statement (Page 2, para. 4) is in error concerning the settlement proceedings preceding the alleged illness by more than a year. NEVER, anywhere in any of the negotiations of settlement or consideration of acceptance for same did Plaintiff agree to a settlement for the $2,000.00 without the offered by Defendants ((See EXHIBITS No. 2, 3 (Praecipes in two parts), 4, and 4-A (Release dated September, 1965)) to drop the counter-defense suit C.A. 737-65 filed in U.S. District Court one month after Defendant was served in suit C.A. 187-65. The counter-defense suit 737-65 was continuously used by Defendants in 187-65 to harass Plaintiff, humiliate and aggravate her in Defendants'

bargaining to drop the suit in proffered settlement conditions of suit No. 187-65. (See EXHIBIT 4-A for wording in that proffered Release offering to drop the suit 737-65. See attached EXHIBITS No. 2 and 3 identified elsewhere herein as a letter dated September 16, 1965 from Plaintiff's attorney Gardiner to Defendant attorney Nathan setting forth the definite agreement entered into between counsel in settlement of both connecting suits, with Praecipes attached, ready for court filing, after the negotiations of offer, and acceptance by Plaintiff: (Both Praecipes identified as EXHIBIT 3). Also, see attached correspondences between Plaintiff and counsel concerning the settlement offer and acceptance of same identified as EXHIBIT 12 containing correspondences as following: Plaintiff's letter to counsel Gardiner dated October 8, 1965 and October 11, 1965; counsel Gardiner's letter to Plaintiff dated October 11, 1965. In regard to counsel Gardiner's threatened withdrawal see Plaintiff's answer dated October 13, 1965 identified as EXHIBIT 11, attached.

3. The continued harassment and intimidation inflicted on Plaintiff by her counsel's constant threat to withdraw from the case, in his agreement with defense counsel that he would withdraw if Plaintiff did not accept conditions offered by defense counsel Nathan (See as identified below EXHIBITS No. 13, 14, 15, 16, 17, 18, inclusively) as related to Plaintiff by counsel Gardiner on May 18, 1965 that he had agreed with defense counsel Nathan after leaving the courthouse with successfully accomplished Court Order to Continue Discovery Proceedings; (See EXHIBITS No. 13 & 14, attached) and the agreement between counsel so aggravated Plaintiff to cause further severe damage to her health and the serious permanent impairment of Plaintiff's health which started as a result of this lawsuit – *in 1964* (See attached Dr. John R. Ewan's Certification) contrary to Defendant's claim (Page

2, para. 4) . . ." the settlement proceedings (1965) preceded the alleged illness by more than a year." In this regard Plaintiff offers Doctor's records.

4. Further deception by Plaintiff's counsel Gardiner and counsel for the Defense is evidenced in their agreement to secretly suppress from court filing the Deposition of the Golden Ox's key witness, Charles Snyder, wherein a false statement was deliberately sworn under oath as witness Snyder was being represented by defense counsel Nathan in the office of Plaintiff's counsel Gardiner (See attached EXHIBITS No. 17 and 18. EXHIBIT No. 17 identified as a letter from Defense counsel Nathan to Plaintiff's counsel Gardiner dated August 5, 1966 wherein Mr. Nathan states to Plaintiff's counsel, Quote: "Miss Ray only very recently had the Snyder deposition transcribed, although it had been agreed that it would not be transcribed as it was suppressed." EXHIBIT 18 identified as the Snyder Deposition, testimony taken April 14, 1965. (See correspondence from Plaintiff to her counsel Gardiner pleading with him to file all depositions in these two connecting cases, identified as EXHIBITS 23 and 24, listed herein.)

5. The False statement sworn under oath in the Snyder Deposition, and suppressed from court filing by the counsel for the Plaintiff and counsel for the Defense, contains the reason for the filing of this suit (See EXHIBIT No. 20 attachments, *i.e.*, identified "Memorandum To All Advertising Media" and attached Affidavit by Stanley Stoller.)

6. It is noted by Plaintiff that Defendants suggest an indicated laches (Page 2, para. 5). Plaintiff wishes to advise the court that she has never abandoned her rights in any way to the proceeding of this litigation, and the reason for any delay is due to the apparent fact that it is

difficult for a litigant to acquire representation in a case where all attorneys are under investigation by Grievance Committee or where case is pending for hearing by Grievance (See attached EXHIBIT No. 20-A identified by letter dated August 8, 1968 to Plaintiff from Chief Judge Curran wherein it is suggested that Grievance hold the hearing and which hearing is pending. See EXHIBIT No. 21, identified as a letter to Plaintiff from Deputy Chief Mr. Donald S. Smith of the U.S. District Attorney's Office concerning the investigation in this case of fraud, deception, and deliberate perjury.)

7. Plaintiff admits that the signature of Candis O. Ray on the Partial Settlement and Title Transfer Instrument submitted by the Defendants looks like her signature, but she does not remember signing the documents, and directs the attention of the court to the attached copy of the Pretrial statement in this case, marked EXHIBIT No. 19 (Page 4, Bottom) "Counsel for Aires and Impact Advertising has in his possession copies of two documents which he requests be admitted in evidence at the trial, but the plaintiff will make no agreement with relation thereto, and at pretrial, counsel for defendants requested that the originals of these documents be produced at the trial by the plaintiff, but P would make no agreement of this nature."

(THE REFERRED TO PRETRIAL STATEMENT IS FOUND IN COURT FILES, C.A. 187-65.)

Plaintiff certifies, and advises the court that those two documents submitted by Defense at the Pretrial, above referred to, are the copies of the unsigned Partial Settlement and Title Transfer without Plaintiff's signature.

MISSTATEMENT OF FACTS IN DEFENSE COUNSEL'S HANS A. NATHAN AFFIDAVIT REFERRED TO BY DEFENDANTS AS EXHIBIT NO. 4:

A. Defense Counsel Hans A. Nathan swears (Page 2, para. 3) that an "amount of $500.00 was offered to dispose of the claim". Plaintiff submits the Affidavit of JOHN GIBSON SEMMES, ESQ., of the trade mark law firm, Semmes and Semmes of Washington, D. C. wherein Mr. Semmes states that $1,000.00 was offered. (See attached copy of Mr. Semmes' Affidavit dated March 18, 1968, the original of which is filed with the Grievance Committee with the complaint matter. See also attached correspondences re the proffered amount of $1,000.00 by Defense counsel Hans A. Nathan, identified as follows: EXHIBIT No. 25 – JOHN GIBSON SEMMES' Affidavit; EXHIBIT No. 26 – Letter of confirmation of offer from Plaintiff Candis O. Ray to counsel Semmes dated September 30, 1964.)

(a) With reference to representation of the Plaintiff by counsel Semmes, Plaintiff submits additional EXHIBITS: EXHIBIT No. 27 identified as a letter from Mr. Semmes to Plaintiff dated July 21, 1964 wherein Mr. Semmes expresses shock at the strategy of Defense counsel Nathan by Nathan's disdainful and subordinate directives to WRC RADIO STATION, the media the Golden Ox Restaurant used in the violation of the copyright infringements, with orders to the Station to continue the infringements in defiance of the U.S. Copyright laws, and in defiance of any amicable or fraternal consideration to Mr. Semmes, and without warning to Mr. Semmes that he was going to advise Station WRC to continue the infringements.

(b) Counsel Semmes advised Plaintiff that he did not want to get involved with that kind of litigation, and that Mr. Nathan asked him if he wasn't going to withdraw. (See EXHIBIT 26)

THE CONTINUED THREATS BY COUNSEL GARDINER LATER AFTER THE CASE WAS FILED BY COUNSEL GARDINER SO INTIMIDATED AND FRIGHTENED PLAINTIFF INTO SEVERE NERVOUSNESS TO PERMANENTLY IMPAIR HER HEALTH FOR LIFE (See correspondences from counsel Gardiner continuously threatening to withdraw (See EXHIBITS 12-A & 12-B))

B. Plaintiff denies the sworn statement of Defense Hans A. Nathan that $3,500.00 was ever offered to her in settlement. Continuous and chronological correspondences attached hereto belie that statement. In the same paragraph Mr. Nathan (Page 2, para. 4) states that he want back to a $2,000,00 counter-offer.

Mr. Nathan continued to make offers to counsel Gardiner, and as soon as his offers were accepted by counsel and plaintiff, he would withdraw his offer. And this harassment continued – with Mr. Nathan continuing to dangle the case 737-65 identified as a slander suit filed by a defendant to 187-65 one month after service of that suit, which purpose was to further intimidate and harass Plaintiff (See EXHIBIT No. 2, 3 and 4-A wherein the slander suit was constantly offered as a bargaining condition of settlement in this suit, C.A. 187-65.)

Plaintiff's counsel Gardiner advised Plaintiff, his client, that he could not get Mr. Nathan to keep his word with him in any of these settlement offers and acceptances.

C. Paragraph 6, page 2 of Mr. Nathan's Affidavit states "On August 26, 1965" an agreement between Counsel was reached to the effect that $2,000.00 would be accepted in full settlement of all claims – which carried with it the offer by the Defendants to drop the slander suit, 737-65 in this settlement among many other

conditions (See EXHIBIT No. 4-A identified as the Release prepared and proffered by Nathan confirming agreement. See also Nathan's subsequent letter dated September 21, 1969 addressed to counsel Gardiner withdrawing his offer to drop the slander suit, and demanding a letter of apology for Mrs. Graze in regards to the alleged charges, identified as EXHIBIT 4.)

D. The Affidavit of Mr. Nathan states incorrectly (Page 3, para. 7) that "on 12 August, 1966" a revised Agreement of Settlement and Mutual Release was signed by all parties. Defendants state elsewhere in their Opposition to this Motion that the date of negotiations of the instrument is August 26, 1966.

In further response to above paragraph of the sworn statement of Mr. Nathan (Page 3, para. 7) Plaintiff respectfully directs attention of the court to the attached correspondences between Plaintiff and counsel who sent Defendants' correspondences to Plaintiff to answer direct, and with counsel Gardiner's full knowledge Plaintiff was forced to answer Defense attorney Nathan direct, as Plaintiff had been advised by counsel Gardiner that he "couldn't do anything with Nathan" and that he "Couldn't get him to keep his word and agreements" with him. (See attached EXHIBITS No. 7, 10, 11 and other attached EXHIBITS)

SUMMARY:

1. Duress, Coercion, Fraud and over-reaching is therefor evidenced in the execution of Partial Settlement.

2. False statements are made by Defendants in their Opposition to Motion. And false statements are sworn under oath by Defense counsel Nathan in Opposition.

3. The cat and mouse play between counsel in offers of settlements and rejections of same as soon as accepted by Plaintiff so aggravated Plaintiff and oppressed her that medical care was needed, and Plaintiff has sustained severe and permanent damage to her health, and great outlay of cost in treatment as a result of the damage caused by this harassment (See EXHIBIT No. 1, attached hereto.)

4. Plaintiff was blocked in continuing discovery proceedings of the Radio and Television personnel by secret agreement between counsel (See attached EXHIBITS No. 13, 14, 15, 16.)

5. Plaintiff has had difficulty in obtaining representation because of the nature of the procedural irregularities and the charges against the attorneys of record.

WHEREFORE, PLAINTIFF respectfully begs the indulgence of this honorable court in the unlearned form and appearance of this ANSWER, AND prays the court for an Order:

1. To Set Aside the Partial Settlement and Title Transfer Effected August the 26 (as alleged by Defendants in Opposition to This Motion), 1966 or the date of August 12, 1966 (as alleged also in the same Opposition to This Motion in Affidavit by Defense counsel Hans A. Nathan.)

2. And for such other relief due to the damage to Plaintiff's health as a result of the deliberate intimidation and harassment by the counsel of record for both sides in their agreements to conceal and deprive Plaintiff of her rights in this suit.

3. And for such other causes as may be advanced at the hearing.

EXHIBITS ATTACHED HERETO: (Or otherwise noted (where found in file Civil Action No. 187-65, (U.S. District Court.)

Identification:

EXHIBITS –	No. 1,	Certification of Dr. John Ewan dated February 5, 1969.
"	No. 2,	Letter dated September 16, 1965 from James S. Gardiner to Hans A. Nathan.
"	No. 3,	Praecipes in both suits, C.A. 187-65 and 737-65 filled out ready for court filing by attorneys, and as per agreement between counsel, signed by Plaintiff's counsel, which Praecipes were attached to EXHIBIT No. 2.
"	No. 4,	Letter dated September 21, 1965 from Hans A. Nathan to Plaintiff's counsel James S. Gardiner.
"	No. 4-A,	AGREEMENT OF SETTLEMENT AND MUTUAL RELEASE Proffered by Defense counsel Hans A. Nathan.
"	No. 5,	Letter dated September 24, 1965 from Plaintiff to counsel Gardiner.
"	No. 6,	Letter dated September 23, 1965 from Plaintiff to Hans A. Nathan.
"	No. 7,	Letter dated September 25, 1965 to Hans A. Nathan.

EXHIBITS (cont'd) – No. 8, Letter dated September 4, 1964 from Defense counsel Jack H. Olender to James S. Gardiner.

" No. 9, Letter dated October 5, 1964 from Hans A. Nathan to Plaintiff.

" No. 10, Letter dated October 6, 1965 from Hans A. Nathan to Plaintiff.

" No. 11, Letter dated October 13, 1965 from Plaintiff to counsel James S. Gardiner.

" No. 12, Letter dated October 8, 1965 from Plaintiff to counsel James S. Gardiner.

" No. 12(a),– Letter dated October 11, 1965 from Plaintiff to counsel Gardiner.

" No. 12(b),– Letter dated October 11, 1965 from Plaintiff's counsel Gardiner to Plaintiff.

" No. 12-A, Letter from counsel Gardiner to Plaintiff.

" No. 12-B, Letter dated August 6, 1965 from counsel Gardiner to Plaintiff also re withdrawal.

" No. 13, Opposition to Calendar Case for Trial in order to take Further Discoveries.

EXHIBITS (cont'd) – No. 14. ORDER granted to counsel Gardiner to continue Discoveries.

" No. 15. Letter from Plaintiff to counsel Gardiner dated May 7, 1965 requesting the continuance of Discoveries.

" No. 16. Letter from Plaintiff to counsel Gardiner dated August 5, 1965 requesting the amount of time left for the Discovery Proceedings by Order of the Court.

" No. 17. Letter dated August 5, 1965 from Hans A. Nathan to Plaintiff's counsel Gardiner wherein it is disclosed that they (counsel) had agreed to suppress the deposition of Charles Snyder.

" No. 18. The Deposition of Charles S. Snyder, disclosing the perjured statement, which deposition was concealed from the court by agreement between counsel, contains the crux of this suit and the reason for filing same.

*The above EXHIBIT No. 18 (Snyder Deposition) cannot be filed with this Answer because of its bulkiness, but will be offered at hearing.

EXHIBITS (cont'd) – No. 19. Pretrial Statement of C.A. 187-65.

*The above EXHIBIT No. 19, the Pretrial Statement, will not be filed with this Answer, however, it is found in its entirety in the C.A. 187-65 file in the Filing Room at the U.S. District Court house.

EXHIBITS (cont'd) – No. 20, Letter of Complaint filed with Grievance, dated December 23, 1967 (This was the second filing with Grievance. The first letter of complaint was filed December 7, 1967.)

*The above EXHIBIT No. 20 consists of three pages, with attachments as follows: MEMORANDUM TO ALL ADVERTISING MEDIA and the Affidavit of WWDC Sales Manager Stanley Stoller.

" No. 20-A, Letter from Chief Judge Curran to Plaintiff dated August 8, 1968.

" No. 21, Letter from Mr. Donald S. Smith of District Attorney's Office to Plaintiff dated March 13, 1969.

" No. 22, Letter dated March 24, 1959 from Mark P. Friedlander, Sr., to Plaintiff.

" No. 23, Letter dated July 5, 1965 from Plaintiff to counsel Gardiner re the filing of all depositions in this case

" No. 24, Letter dated June 9, 1965 from Plaintiff to counsel Gar Gardiner re suppressing depositions.

" No. 25, AFFIDAVIT by JOHN GIBSON SEMMES.

" No. 26, Letter dated September 30, 1964 from Plaintiff to counsel Semmes.

EXHIBITS (cont'd) – No. 27, Letter dated July 21, 1964 from counsel John Gibson Semmes to Plaintiff.

" No. 28, Letter dated July 20, 1964 from Hans A. Nathan to Radio Station WRC.

" No. 29, Letter dated November 24, 1964 from counsel Gardiner to The Management, WRC Radio and WRC Television Stations.

" No. 30, Letter dated November 24, 1964 from counsel Gardiner to Hans A. Nathan.

/s/ CANDIS O. RAY,
Plaintiff

[Certificate of Service]

APPENDIX D

EXHIBIT NO. 2

McCULLOUGH & GARDINER
Attorneys at Law
1053 National Press Building
Washington, D. C. 20004

* * *

* * *

September 16, 1965

Hans A. Nathan, Esquire
1730 K Street, N. W.
Washington, D. C.

Re: Candis O. Ray

Dear Mr. Nathan:

Several weeks ago you offered settlement and compromise of the suit Candis O. Ray has against your clients; that your clients would settle for the sum of Two Thousand ($2,000.00) Dollars. You further agreed that the case that Ruth Graze has brought against Miss Ray for slander would also be dismissed. In a subsequent conversation with you it was agreed that Miss Ray would convey title to the copyright but reserving the right to use copyright material at any future time.

Miss Ray has accepted this offer and pursuant thereto, you will find enclosed praecipes that I have prepared for the dismissal of said cases. Upon receipt of the check for the sum of Two Thousand ($2,000.00), you are authorized to file the enclosed praecipes.

If there are any questions concerning this matter, please don't hesitate to contact me.

Sincerely,

/s/ JAMES S. GARDINER

JSG/bm
Enc.

APPENDIX D(a)

EXHIBIT NO. 3
Part No. I

PRAECIPE

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

the _____ day of _____, 19__

CANDIS O. RAY,
Plaintiff.

vs.

The KANSAS CITY STOCKYARD CO. of MAINE,
Defendant.

) Civil Action No. 187-65 _____

The Clerk of said Court will please enter on the docket that in the above entitled case the complaint and the counterclaim have been settled and dismissed WITH "prejudice".

HANS A. NATHON
Attorney for Kansas City Stock Yard of Maine & National Broadcasting Co.

JACK H. OLENDER
910 – 17th Street, N. W.
Washington, D. C.
Attorney for Impact Adv. Agency & Aires Publishing Co.

/s/JAMES S. GARDINER
1053 Nat'l Press Bldg.
Address
Attorney for Plaintiff

APPENDIX D(b)

EXHIBIT NO. 3
Part No. II

PRAECIPE

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

the ____ day of _____, 19__

RUTH GRAZE,	)	
Plaintiff,	)	**Civil**
vs.	)	**Action No.**
	)	**737-65**
CANDIS O. RAY,	)	
Defendant.	)	

The Clerk of said Court will enter on the docket that the above entitled case is dismissed with "prejudice".

/s/ **JAMES S. GARDINER**
Attorney for Defendant

JACK H. OLENDER
*Address*_____
Attorney for Plaintiff

APPENDIX D(c)

EXHIBIT NO. 12-B

McCULLOUGH & GARDINER
ATTORNEYS AT LAW
1053 NATIONAL PRESS BUILDING
WASHINGTON, D. C. 20004

* * * * * *

August 6, 1965

Miss Candis O. Ray
1545 Eighteenth Street, N. W.
Washington, D. C.

Dear Miss Ray:

This is to advise you that with your consent and approval, I hereby withdraw as your attorney in your suit against the Golden Ox, *et al.*, and in the suit in which you were sued by Ruth Graze.

All records have been returned to you and I have no claim against you for attorney's fees. My fees have been taken care of by you.

I am sorry that I am unable to continue as your attorney, but other business in the office demands my immediate attention.

Wishing you the best of luck, I am

Sincerely,

/s/ James S. Gardiner

APPENDIX D(d)

EXHIBIT NO. 11

CANDIS O. RAY AGENCY
PUBLIC RELATIONS
1545 EIGHTEENTH STREET, N. W.
WASHINGTON, D. C.

* * *

* * *

October 13, 1965

James S. Gardiner, Esq.
800 Woodward Building
Washington, D. C.

Dear Mr. Gardiner:

I have received your letter of October 11, 1965.

I certainly have *never* agreed to your withdrawal from these cases. You told me you were going to withdraw as my attorney if I did not accept the offered $2,000.00 as settlement. I agreed to accept the $2,000.00 as settlement, and after that you sent me Mr. Nathan's correspondence to answer, and I answered it direct to him.

You told me you just didn't want to continue the cases, and I understand you've informed the opposition attorneys of your decision, and you did so before notifying me.

I believe this makes the picture as clear as it can be.

Sincerely,

/s/ CANDIS O. RAY

APPENDIX D(e)

PRAECIPE

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

the _____ day of November, 1965

RUTH G. GRAZE, *Plaintiff.*	)	
vs.	)	Civil
	)	Action No.
Candis O. Ray, *Defendant.*	)	737-65

The Clerk of said Court will enter upon the docket that the appearance of James S. Gardiner, attorney for Candis O. Ray, Defendant, is withdrawn.

Approved and Consented To:

/s/ MARK P. FRIEDLANDER, JR.
Attorney for Defendant.

Copy mailed to Jack H. Olender,
Attorney for Plaintiff, this
_____ day of November, 1965.

/s/ JAMES S. GARDINER
Address 800 Woodward Building
Washington, D. C.
Attorney for _____

APPENDIX D(f)

PRAECIPE

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

the _____ day of November, 1965

RUTH G. GRAZE, *Plaintiff,*	)	
vs.	)	**Civil Action No. 737-65**
CANDIS O. RAY, *Defendant.*	)	

The Clerk of said Court will please enter the appearance of Mark P. Friedlander, Jr., and the firm of Friedlander & Friedlander, as attorneys for the Defendant, Candis O. Ray.

FRIEDLANDER & FRIEDLANDER

By: /s/ Mark P. Friedlander, Jr.
Address 1210 Shoreham Building
Washington, D. C.
Attorney for _____

Copy mailed postage prepaid to Jack H. Olender, Esq., 701 Barr Building, Washington, Attorney for Plaintiff, this 25th day of October, 1965.

_____
Mark P. Friedlander, Jr.

APPENDIX E

TURKISH EMBASSY
WASHINGTON, D.C.

February 8, 1967

Miss Candis O. Ray
1545 Eighteenth Street, N. W.
Washington, D. C.

Dear Miss Ray,

Thank you very much for your letter of February 3, 1967, giving me information on the Washington Internship in Education Program, which, to my mind, represents a very commendable scheme to further education.

We would be very pleased to receive the members of the group at our Embassy on April 28 and to show them a glimpse of the Turkish way of life following an informal buffet supper at 7:30 p.m.

Invitations will also be extended to the Advisory Board members.

I would appreciate very much if you could kindly confirm whether the above mentioned date and time is agreeable to you.

Sincerely yours,

/s/ Melih Esenbel
Ambassador

APPENDIX F

CANDIS O. RAY AND ASSOCIATES
PUBLIC RELATIONS
2700 CONNECTICUT AVENUE, N.W., WASHINGTON, D. C. 20008

WASHINGTON PHONES:
(202) 223-1113
(202) 483-9495

CABLE ADDRESS:
"RAYCONVENE"

May 17, 1970

H. E. Corneliu Bogdan
Ambassador
Embassy of Romania
1607 – 23rd Street, N. W.
Washington, D. C. 20037

My Dear Ambassador Bogdan:

May I express my deepest appreciation for your warm and friendly hospitality in receiving and entertaining the delegate members of the Administrative Management Society on Saturday evening last, at your beautiful embassy.

I am sure that each person present carried away with him a better understanding of your country and a feeling of sincere friendliness between our two countries because of the warmth and charm you emanated in your informal welcome speech.

On behalf of the Society let me express their appreciation for your generous and neighborly gesture in receiving them. Some of them commented on your very flattering and unusual command of the English language.

I am very grateful also to Mr. Raceanu for his cooperation and assistance.

Most cordially,

/s/ CANDIS O. RAY
Director

cc: Mr. Mircea Raceanu